
Class No.....

[illegible]

CONSTITUENT ASSEMBLY OF INDIA

DRAFTING COMMITTEE

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[Sir B. L. Mitter, though originally appointed a member of the Committee, was unable to attend after the first meeting, as he ceased to be a member of the Constituent Assembly.]

New Delhi, 21st February, 1948.

To

The Hon'ble The **PRESIDENT** of the
Constituent Assembly of India,
New Delhi.

Dear Sir,

Introductory.—On behalf of the Drafting Committee appointed by the resolution of the Constituent Assembly of August 29, 1947, I submit herewith the Draft of the new Constitution of India as settled by the Committee.

Although I have been authorized to sign the Draft on behalf of the members of the Committee, I should make it clear that not all the members were present at all the meetings of the Committee. But at every meeting at which any decision was taken the necessary quorum was present and the decisions were either unanimous or by a majority of those present.

In preparing the Draft the Drafting Committee was of course expected to follow the decisions taken by the Constituent Assembly or by the various Committees appointed by the Constituent Assembly. This the Drafting Committee has endeavoured to do as far as possible. There were however some matters in respect of which the Drafting Committee felt it necessary to suggest certain changes. All such changes have been indicated in the Draft by underlining or side-lining the relevant portions. Care has also been taken by the Drafting Committee to insert a footnote explaining the reasons for every such change. I however think that, having regard to the importance of the matter, I should draw your attention and the attention of the Constituent Assembly to the most important of these changes.

2. Preamble.—The Objectives Resolution adopted by the Constituent Assembly in January, 1947, declares that India is to be a Sovereign Independent Republic. The Drafting Committee has adopted

the phrase Sovereign Democratic Republic, because independence is usually implied in the word "Sovereign", so that there is hardly anything to be gained by adding the word "Independent". The question of the relationship between this Democratic Republic and the British Commonwealth of Nations remains to be decided subsequently.

The Committee has added a clause about fraternity in the preamble, although it does not occur in the Objectives Resolution. The Committee felt that the need for fraternal concord and goodwill in India was never greater than now and that this particular aim of the new Constitution should be emphasised by special mention in the preamble.

In other respects the Committee has tried to embody in the preamble the spirit and, as far as possible, the language of the Objectives Resolution.

Article 1

3. Description of India.—In article 1 of the Draft, India has been described as a Union of States. For uniformity the Committee has thought it desirable to describe the Units of the Union in the new Constitution as States, whether they are known at present as Governors' Provinces, or Chief Commissioners' Provinces or Indian States. Some difference between the Units there will undoubtedly remain even in the new Constitution; and in order to mark this difference, the Committee has divided the States into three classes: those enumerated in Part I of the First Schedule, those enumerated in Part II, and those enumerated in Part III. These correspond respectively to the existing Governors' Provinces, Chief Commissioners' Provinces and Indian States.

It will be noticed that the Committee has used the term Union instead of Federation. Nothing much turns on the name, but the Committee has preferred to follow the language of the preamble to the British North America Act, 1867, and considered that there are advantages in describing India as a Union although its Constitution may be federal in structure.

Articles 5 & 6

4. Citizenship.—The Committee has given anxious and prolonged consideration to the question of

citizenship of the Union. The Committee has thought it necessary that, in order to be a citizen of the Union at its inception, a person must have some kind of territorial connection with the Union whether by birth, or descent, or domicile. The Committee doubts whether it will be wise to admit as citizens those who, without any such connection with the territory of India, may be prepared to swear allegiance to the Union; for if other States were to copy such a provision, we might have within the Union a large number of persons who, though born and permanently resident therein, would owe allegiance to a foreign State. The Committee has, however, kept in view the requirements of the large number of displaced persons who have had to migrate to India within recent months, and has provided for them a specially easy mode of acquiring domicile and, thereby, citizenship. What they have to do (assuming that they or either of their parents or any of their grand-parents were born in India or Pakistan) is—

- (a) to declare before a District Magistrate in India that they desire to acquire a domicile in India, and
- (b) to reside in India for at least a month before the declaration.

5. Fundamental Rights.—The Committee has attempted to make these rights and the limitations to which they must necessarily be subject as definite as possible, since the courts may have to pronounce upon them.

6. Powers of the President of the Union.—The Committee has considered it desirable to provide that the President should have power to suspend, remit or commute death sentences passed in an Indian State, as in other Units, without prejudice to the powers of the Ruler.

It will be remembered that the new Constitution empowers the Governor, in certain circumstances, to issue a proclamation suspending certain provisions of the Constitution; he can do so only for a period of two weeks and is required to report the

matter to the President. The Committee has provided that upon receipt of the report the President may either revoke the proclamation or issue a fresh proclamation of his own, the effect of which will be to put the Central Executive in the place of the State Executive and the Central Legislature in the place of the State Legislature. In fact, the State concerned will become a centrally administered area for the duration of the proclamation. This replaces the "Section 93 régime" under the Act of 1935.

Article 60

7. Executive Power in respect of Concurrent List subjects.—Under the present Constitution, executive authority in respect of a Concurrent List subject vests in the Province subject in certain matters to the power of the Centre to give directions as to how the executive authority shall be exercised, vide Parts I & II of the Concurrent Legislative List in the Seventh Schedule to the Government of India Act, 1935. In the Draft Constitution the Committee has departed slightly from this plan and has provided that the executive power shall vest in the Province (now called the State) "save as expressly provided in this Constitution or by any law made by Parliament." The effect of this saving clause is that it will be open to the Union Parliament under the new Constitution to confer executive power on Union authorities, or, if necessary, to empower Union authorities to give directions as to how executive power shall be exercised by State authorities. In making this provision the Committee has kept in view the principle that executive authority should for the most part be co-extensive with legislative power.

Article 67

8. Composition of the Council of States.—According to a decision taken by the Constituent Assembly, the Council of States was to contain not more than 25 members (out of a total not exceeding 250) to be elected from panels or constituencies on a functional basis. The panel system having hitherto proved unsatisfactory in the country from which it was copied (Ireland), the Committee has thought it best to provide for 15 members to be nominated by the President for their special knowledge or practical experience in Literature, Art, Science, etc. The Committee considers that no special

representation for labour or commerce and industry among these nominations is necessary, in view of the fact that they are certain to be adequately represented in the elected element of the Union Parliament owing to adult suffrage.

9. Duration of Union Parliament and of State Legislatures.—The Committee considers that under the parliamentary system, particularly at the beginning of a new Constitution on the basis of adult suffrage, a longer term than four years is desirable. New ministers require some time to acquaint themselves with the details of administration, and their last year of office is usually taken up in preparing for the next general election. With a four-year term they will not have enough time for any kind of planned administration.

10. Supreme Court and High Courts.—Following the practice prevailing in the United Kingdom and the United States of America, the Committee has proposed that in certain circumstances retired judges may be invited to serve in particular cases: both in the Supreme Court and in the High Courts.

11. Mode of selection of Governors.—Some members of the Committee feel that the co-existence of a Governor elected by the people and a Chief Minister responsible to the Legislature might lead to friction. The Committee has therefore suggested an alternative mode of appointing Governors: the Legislature should elect a panel of four persons (who need not be residents of the State) and the President of the Union should appoint one of the four as Governor.

12. Deputy Governors.—The Committee has not thought it necessary to make any provision for Deputy Governors, because a Deputy Governor will have no function to perform so long as the Governor is there. At the Centre, the position is different, because the Vice-President is also the ex-officio Chairman of the Council of States; but in most of the States there will be no Upper House and it will not be possible to give the Deputy Governor functions similar to those of the Vice-President. There

is a provision in the Draft enabling the Legislature of the State (or the President) to make necessary arrangements for the discharge of the functions of the Governor in any unforeseen contingency.

Articles 212
to 214.

13. Centrally administered areas.—In accordance with a resolution of the Constituent Assembly, you, as the President, appointed a Committee of seven members for the purpose of recommending constitutional changes in the centrally administered areas namely, Delhi, Ajmer-Merwara, Coorg, Panth Piploda and the Andaman and Nicobar Islands. The Committee submitted its report on October 21, 1948. The Committee's recommendations were briefly these:—

- (1) Each of the provinces of Delhi, Ajmer-Merwara and Coorg should have a Lieutenant-Governor appointed by the President of India.
- (2) Each of these provinces should normally be administered by a Council of ministers responsible to the Legislature.
- (3) Each of these provinces should have an elected Legislature.

As regards Panth Piploda the Committee recommended that it should be added to Ajmer-Merwara and as regards the Andaman and Nicobar Islands the Committee recommended that they should continue to be administered by the Government of India as at present, with such adjustments as might be deemed necessary: in other words, these Islands were to continue as a Chief Commissioner's province. The member representing Ajmer-Merwara and the member representing Coorg on this Committee appended a note to the Committee's report, in which they said that the special problems arising out of the smallness, geographical position and scantiness of resources of these areas might at no distant future necessitate the joining of each of these areas to a contiguous unit. They therefore urged that there should be a specific provision in the Constitution to make this possible after ascertaining the wishes of the people concerned.

So far as Delhi is concerned, it seems to the Committee that as the capital of India it can hardly be placed under a local administration. In the United

States, Congress exercises exclusive legislative power in respect of the seat of the Government; so too in Australia. The Drafting Committee has, therefore, come to the conclusion that a more comprehensive plan than that recommended by the ad hoc Committee is desirable. Accordingly, the Drafting Committee has proposed that these central areas may be administered by the Government of India either through a Chief Commissioner or a Lieutenant-Governor or through the Governor or the Ruler of a neighbouring State. What is to be done in the case of a particular area is left to the President to prescribe by order; he will, of course, in this, as in other matters, act on the advice of responsible ministers. He may, if so advised, have a Lieutenant-Governor in Delhi; he may, again, if so advised, administer Coorg either through the Governor of Madras or through the Ruler of Mysore after ascertaining the wishes of the people of Coorg. He may also by order create a local Legislature or a Council of advisers with such constitution, powers and functions, in each case, as may be specified in the order. This seems to the Drafting Committee to be a flexible plan which can be adjusted to the diverse requirements of the areas concerned.

The Committee has also provided that Indian States (such as those of the Orissa group) which have ceded full and exclusive authority, jurisdiction and powers to the Central Government may be administered exactly as if they were Centrally Administered Areas, i.e., through a Chief Commissioner, or Lieutenant-Governor, or through the Governor or the Ruler of a neighbouring State, according to the requirements of each case.

Articles 216
to 232.

14. Distribution of Legislative Powers.—For the most part, the Drafting Committee has made no change in the Legislative Lists as recommended by the Union Powers Committee and adopted by the Constituent Assembly, but I would draw attention to three matters in respect of which the Drafting Committee has made changes:

- (a) The Committee has provided in effect that when a subject, which is normally in the State List, assumes national importance,

then the Union Parliament may legislate upon it. To prevent any unwarranted encroachment upon State powers, it has been provided in the Draft that this can be done only if the Council of States, which may be said to represent the States as Units, passes a resolution to that effect by a two-thirds majority.

- (b) The Committee has considered it desirable to put into the Concurrent List the whole subject of succession, instead of only succession to property other than agricultural land. Similarly, the Committee has put into the Concurrent List all the matters in respect of which parties are now governed by their personal law. This will facilitate the enactment of a uniform law for India in these matters.
- (c) While putting land acquisition for the purposes of the Union into the Union List and land acquisition for the purposes of a State into the State List, the Committee has provided that the principles on which compensation for acquisition is to be determined shall in all cases be in the Concurrent List, in order that there may be some uniformity in this matter.

In addition, in view of the present abnormal circumstances which require Central control over essential supplies, the Committee has provided that for a term of five years from the commencement of the Constitution, trade and commerce in, and the production, supply and distribution of, certain essential commodities as also the relief and rehabilitation of displaced persons shall be on the same footing as Concurrent List subjects. In adopting this course, the Committee has followed the provisions of the India (Central Government and Legislature) Act, 1946.

Articles 247
to 269.

15. Financial provisions.—Broadly speaking, the Drafting Committee has incorporated in the Draft the recommendations of the Expert Finance Committee, except those relating to the distribution of revenues between the Centre and the States. In view of the unstable conditions which at present prevail in this field, the Drafting Committee has thought it best

to retain the status quo in the matter of distribution of revenues for a period of five years, at the end of which a Finance Commission may review the situation.

Articles 281
to 283.

16. Services.—The Committee has refrained from inserting in the Constitution any detailed provisions relating to the Services; the Committee considers that they should be regulated by Acts of the appropriate Legislature rather than by constitutional provisions, as the Committee feels that the future Legislatures in this country, as in other countries, may be trusted to deal fairly with the Services.

Articles 289
to 291.

17. Elections, Franchise, etc.—The Committee has not thought it necessary to incorporate in the Constitution electoral details including the delimitation of constituencies. These have been left to be provided by auxiliary legislation.

Article 304.

18. Amendment of the Constitution.—The Committee has inserted a provision giving a limited constituent power to the State Legislatures in respect of certain defined matters.

Articles 292,
294 and 305.

19. Safeguards for Minorities.—The Draft embodies the decisions of the Constituent Assembly and of the Advisory Committee in respect of the reservation of seats in the Legislatures and of posts in the public services. Although these provisions do not extend to the Indian States, nevertheless, in the larger interests of India, the Indian States should adopt similar provisions for the minorities therein. The Drafting Committee has specially asked me to draw your attention to the importance of this matter.

First
Schedule.

20. Linguistic Provinces.—I would invite special attention to Part I of the First Schedule and the footnote thereto. If Andhra or any other linguistic region is to be mentioned in this Schedule before the Constitution is finally adopted, steps will have to be taken immediately to make them into separate Governors' Provinces under section 290 of the Government of India Act, 1935, before the Draft Constitution is finally passed. Of course, the new Constitution itself contains provisions for the creation of new States, but this will be after the new Constitution comes into operation.

Fifth and
Sixth
Schedules

21. Scheduled Tribes, Scheduled Areas and Tribal Areas.—The Committee has embodied in the Schedules to the Constitution the recommendations of the Sub-Committees on these subjects.

22. A separate note recorded by Shri Alladi Krishnaswami Ayyar on certain points (not involving any question of principle) is appended to the Draft at his request.

23. I cannot transmit to you this Draft Constitution without placing on record the Committee's gratitude for the assistance the Committee has received in this difficult task from Sir B. N. Rau, the Constitutional Adviser, Shri S. N. Mukerjee, Joint Secretary and Draftsman, and the staff of the Constituent Assembly Secretariat.

Yours truly,

B. R. AMBEDKAR.

DRAFT CONSTITUTION OF INDIA.

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DRAFT CONSTITUTION OF INDIA

WE, THE PEOPLE OF INDIA, having solemnly resolved to constitute India into a **SOVEREIGN DEMOCRATIC REPUBLIC*** and to 5 secure to all its citizens:

JUSTICE, social, economic and political;

LIBERTY of thought, expression, belief, faith and worship;

EQUALITY of status and of opportunity; 10 and to promote among them all

FRATERNITY assuring the dignity of the individual and the unity of the Nation;

IN OUR CONSTITUENT ASSEMBLY this—
_____of_____ (day 15
of May, 1948 A.D.), do **HEREBY ADOPT, ENACT
AND GIVE TO OURSELVES THIS CONSTITU-
TION.**

*This follows the decision taken by the Constituent Assembly. The question of the relationship between this Democratic Republic and the British Commonwealth of Nations remains to be decided subsequently.

PART I

The Union and its Territory and Jurisdiction

Name and territory of the Union.

*1. (1) India shall be a Union of States.

(2) The States shall mean the States for the time being specified in Parts I, II and III of the First Schedule. 5

(3) The territory of India shall comprise—

- (a) the territories of the States;
- (b) the territories for the time being specified in Part IV of the First Schedule; and 10
- (c) such other territories as may be acquired.

Admission and establishment of new States.

2. Parliament may, from time to time, by law admit into the Union, or establish, new States on such terms and conditions as it thinks fit. 15

Formation of new States and alteration of areas, boundaries or names of existing States.

3. Parliament may by law—

- (a) form a new State by separation of territory from a State or by uniting two or more States or parts of States;
- (b) increase the area of any State; 20
- (c) diminish the area of any State;
- (d) alter the boundaries of any State;
- (e) alter the name of any State:

Provided that no Bill for the purpose shall be introduced in either House of Parliament except by the Government of India and unless— 25

(a) either—

- (i) a representation in that behalf has been made to the President by a majority of the representatives of the territory in the Legislature of the State from which the territory is to be separated or excluded; or 30

*The Committee considers that, following the language of the preamble to the British North America Act, 1867, it would not be inappropriate to describe India as a Union although its Constitution may be federal in structure.

(ii) a resolution in that behalf has been passed by the Legislature of any State whose boundaries or name will be affected by the proposal to be contained in the Bill; and

5

(b) where the proposal contained in the Bill affects the boundaries or name of any State, other than a State for the time being specified in Part III of the First Schedule, *the views of the Legislature of the State both with respect to the proposal to introduce the Bill and with respect to the provisions thereof have been ascertained by the President; and where such proposal affects the boundaries or name of any State for the time being specified in Part III of the First Schedule, the previous consent of the State to the proposal has been obtained.

Law made under articles 2 and 3 to provide for the amendment of the First Schedule and incidental and consequential matters.

4. (1) Any law referred to in article 2 or article 3 of this Constitution shall contain such provisions for the amendment of the First Schedule as may be necessary to give effect to the provisions of the law and may also contain such incidental and consequential provisions as Parliament may deem necessary.

25

(2) No such law as aforesaid shall be deemed to be an amendment of this Constitution for the purposes of article 304.

*The Committee is of opinion that in the case of any State other than a State specified in Part III of the First Schedule, the previous consent of the State is not necessary and it would be enough if the views of the Legislature of the State were obtained by the President.

PART II

Citizenship

Citizenship
at the date
of commence-
ment of the
Constitution.

5. At the date of commencement of this Constitu-
tion—

- (a) every person who or either of whose parents 5
or any of whose grand-parents was born
in the territory of India as defined in this
Constitution and who has not made his
permanent abode in any foreign State
after the first day of April, 1947; and 10
- (b) every person who or either of whose parents
or any of whose grand-parents was born
in India as defined in the Government of
India Act, 1935 (as originally enacted), or
in Burma, Ceylon or Malaya, and who 15
has his domicile in the territory of India
as defined in this Constitution,

shall be a citizen of India, provided that he has not
acquired the citizenship of any foreign State before the
date of commencement of this Constitution. 20

Explanation.—For the purposes of clause (b) of
this article, a person shall be deemed to have his
domicile in the territory of India—

- (i) if he would have had his domicile in such
territory under Part II of the Indian 25
Succession Act, 1925, had the provisions
of that Part been applicable to him, or

- * (ii) if he has, before the date of commencement
of this Constitution, deposited in the office
of the District Magistrate a declaration 30
in writing of his desire to acquire such
domicile and has resided in the territory
of India for at least one month before the
date of the declaration.

6. Parliament may, by law, make further provi- 35
sion regarding the acquisition and termination of
citizenship and all other matters relating thereto.

Parliament
to regulate
the right of
citizenship by
law.

*The Committee is of opinion that auxiliary action whether by
legislation or otherwise may have to be taken before the commence-
ment of this Constitution[†] for the receipt of declarations, keeping
of registers of such declarations and other incidental matters for
the purpose of clause (ii) of the Explanation.

PART III

Fundamental Rights

GENERAL

Definition.

7. In this Part, unless the context otherwise requires, "the State" includes the Government and Parliament of India and the Government and the Legislature of each of the States and all local or other authorities within the territory of India. 5

Savings.

8. (1) All laws in force immediately before the commencement of this Constitution in the territory 10 of India, in so far as they are inconsistent with the provisions of this Part, shall, to the extent of such inconsistency, be void.

(2) The State shall not make any law which takes away or abridges the rights conferred by this Part 15 and any law made in contravention of this clause shall, to the extent of the contravention, be void:

*Provided that nothing in this clause shall prevent the State from making any law for the removal of any inequality, disparity, disadvantage or discrimi- 20 nation arising out of any existing law.

(3) In this article, the expression "law" includes any Ordinance, order, bye-law, rule, regulation, notification, custom or usage having the force of law in the territory of India or any part thereof. 25

Rights of Equality

Prohibition
of discrimina-
tion on
grounds of
religion, race,
caste or sex.

9. (1) The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex or any of them.

In particular, no citizen shall, on grounds only of 30 religion, race, caste, sex or any of them, be subject

*The proviso has been added in order to enable the State to make laws removing any existing discrimination. Such laws will necessarily be discriminatory in a sense, because they will operate only against those who hitherto enjoyed an undue advantage. It is obvious that laws of this character should not be prohibited.

to any disability, liability, restriction or condition with regard to—

(a) access to shops, public restaurants, hotels and places of public entertainment, or

(b) the use of wells, tanks, roads and places of public resort maintained wholly or partly out of the revenues of the State or dedicated to the use of the general public.

(2) Nothing in this article shall prevent the State from making any special provision for women and children.

Equality of opportunity in matters of public employment.

10. (1) There shall be equality of opportunity for all citizens in matters of employment under the State.

(2) No citizen shall, on grounds only of religion, race, caste, sex, descent, place of birth or any of them, be ineligible for any office under the State.

(3) Nothing in this article shall prevent the State from making any provision for the reservation of appointments or posts in favour of any *backward class of citizens who, in the opinion of the State, are not adequately represented in the services under the State.

(4) Nothing in this article shall affect the operation of any law which provides that the incumbent of an office in connection with the affairs of any religious or denominational institution or any member of the governing body thereof shall be a person professing a particular religion or belonging to a particular denomination.

Abolition of Untouchability.

11. "Untouchability" is abolished and its practice in any form is forbidden. The enforcement of any disability arising out of "Untouchability" shall be an offence punishable in accordance with law.

Abolition of titles.

12. (1) No title shall be conferred by the State.

(2) No citizen of India shall accept any title from any foreign State.

(3) No person holding any office of profit or trust under the State shall, without the consent of the President, accept any present, emolument, title or office of any kind from or under any foreign State.

*The Committee is of opinion that before the words "class of citizens" the word "backward" should be inserted.

Protection
of certain
rights re-
garding free-
dom of
speech, etc.

13. (1) Subject to the other provisions of this article, all citizens shall have the right—

- (a) to freedom of speech and expression;
- (b) to assemble peaceably and without arms;
- (c) to form associations or unions; 5
- (d) to move freely throughout the territory of India;
- (e) to reside and settle in any part of the territory of India;
- (f) to acquire, hold and dispose of property; 10 and
- (g) to practise any profession, or to carry on any occupation, trade or business.

(2) Nothing in sub-clause (a) of clause (1) of this article shall affect the operation of any existing law, 15 or prevent the State from making any law, relating to libel, slander, defamation, sedition or any other matter which offends against decency or morality or undermines the authority or foundation of the State. 20

(3) Nothing in sub-clause (b) of the said clause shall affect the operation of any existing law, or prevent the State from making any law, imposing in the interests of public order restrictions on the exercise of the right conferred by the said sub-clause. 25

(4) Nothing in sub-clause (c) of the said clause shall affect the operation of any existing law, or prevent the State from making any law, imposing, in the interests of the general public, restrictions on the exercise of the right conferred by the said sub- 30 clause.

(5) Nothing in sub-clauses (d), (e) and (f) of the said clause shall affect the operation of any existing law, or prevent the State from making any law, im- 35 posing restrictions on the exercise of any of the rights conferred by the said sub-clauses either in the interests of the general public or *for the protection of the interests of any aboriginal tribe.

(6) Nothing in sub-clause (g) of the said clause shall affect the operation of any existing law, or 40 prevent the State from making any law, imposing in the interests of public order, morality or health,

*The Committee is of opinion that no protection to any minority group is necessary in this article.

restrictions on the exercise of the right conferred by the said sub-clause and in particular prescribing, or empowering any authority to prescribe, the professional or technical qualifications necessary for practising any profession or carrying on any occupation, trade or business. 5

Protection in respect of conviction of offences.

14. (1) No person shall be convicted of any offence except for violation of a law in force at the time of the commission of the act charged as an offence, nor be subjected to a penalty greater than that 10 which might have been inflicted under the law at the time of the commission of the offence.

(2) No person shall be punished for the same offence more than once.

(3) No person accused of any offence shall be 15 compelled to be a witness against himself.

Protection of life and personal liberty and equality before law.

*15. No person shall be deprived of his life or personal liberty except according to procedure established by law, nor shall any person be denied equality before the law or the equal protection of 20 the laws within the territory of India.

Freedom of trade, commerce and intercourse throughout the territory of India.

**16. Subject to the provisions of article 244 of this Constitution and of any law made by Parliament, trade, commerce and intercourse throughout the territory of India shall be free. 25

*The Committee is of opinion that the word "liberty" should be qualified by the insertion of the word "personal" before it, for otherwise it might be construed very widely so as to include even the freedoms already dealt with in article 13.

The Committee has also substituted the expression "except according to procedure established by law" for the words "without due process of law" as the former is more specific (c.f. Art. XXXI of the Japanese Constitution, 1946). The corresponding provision in the Irish Constitution runs: "No citizen shall be deprived of his personal liberty save in accordance with law".

The Committee is also of opinion that the words "or the equal protection of the laws" should be inserted after the words "equality before the law" as in section 1 of Article XIV of the U.S.A. Constitution (1865).

**The Committee has omitted the words "by and between the citizens" which occurred after the words "trade, commerce and intercourse" in the provision as adopted by the Constituent Assembly. The qualifying words might necessitate elaborate inquiries at State frontiers as to the nationality of the consignor and consignee.

Prohibition of
traffic in
human be-
ings and en-
forced labour

17. (1) Traffic in human beings and begar and other similar forms of forced labour are prohibited and any contravention of this provision shall be an offence punishable in accordance with law.

(2) Nothing in this article shall prevent the State 5 from imposing compulsory service for public purposes. In imposing such service the State shall not make any discrimination on the ground of race, religion, caste or class.

Prohibition of
employment
of children in
factories, etc.

18. No child below the age of fourteen years 10 shall be employed to work in any factory or mine or engaged in any other hazardous employment.

Rights relating to Religion

Freedom of
conscience
and free pro-
fession,
practice and
propagation
of religion.

19. (1) Subject to public order, morality and health and to the other provisions of this Part, all 15 persons are equally entitled to freedom of conscience and the right freely to profess, practise and propagate religion.

Explanation.—The wearing and carrying of kirpans shall be deemed to be included in the pro- 20 fession of the Sikh religion.

(2) Nothing in this article shall affect the operation of any existing law or preclude the State from making any law—

(a) regulating or restricting any economic, 25 financial, political or other secular activity which may be associated with religious practice;

(b) for social welfare and reform or for throw- ing open Hindu religious institutions of 30 a public character to any class or section of Hindus.

Freedom to
manage re-
ligious affairs
and to own,
acquire and
administer
properties for
religious or
charitable
purposes.

20. Every religious denomination or any section thereof shall have the right—

(a) to establish and maintain institutions for 35 religious and charitable purposes;

(b) to manage its own affairs in matters of religion;

(c) to own and acquire movable and immov- 40 able property; and

(d) to administer such property in accordance with law.

Freedom as to payment of taxes for promotion and maintenance of any particular religion or religious denomination.

21. No person may be compelled to pay any taxes, the proceeds of which are specifically appropriated in payment of expenses for the promotion or maintenance of any particular religion or religious denomination. 5

Freedom as to attendance at religious instruction or religious worship in certain educational institutions.

*22. (1) No religious instruction shall be provided by the State in any educational institution wholly maintained out of State funds: 10

Provided that nothing in this clause shall apply to an educational institution which is administered by the State but has been established under any endowment or trust which requires that religious instruction shall be imparted in such institution. 15

(2) No person attending any educational institution recognised by the State or receiving aid out of State funds shall be required to take part in any religious instruction that may be imparted in such institution or to attend any religious worship that may be conducted in such institution or in any premises attached thereto unless such person, or if such person is a minor, his guardian has given his consent thereto. 20

(3) Nothing in this article shall prevent any community or denomination from providing religious instruction for pupils of that community or denomination in an educational institution outside its working hours. 25

Cultural and Educational Rights 30

Protection of interests of minorities.

23. (1) Any section of the citizens residing in the territory of India or any part thereof having a distinct language, script and culture of its own shall have the right to conserve the same.

*This article follows the recommendation of the *ad hoc* Committee.

(2) No minority whether based on religion, community or language shall be discriminated against in regard to the admission of any person belonging to such minority into any educational institution maintained by the State. 5

(3) (a) All minorities whether based on religion, community or language shall have the right to establish and administer educational institutions of their choice.

(b) The State shall not, in granting aid to educational institutions, discriminate against any educational institution on the ground that it is under the management of a minority, whether based on religion, community or language. 10

Right to Property 15

Compulsory acquisition of property.

24. (1) No person shall be deprived of his property save by authority of law.

(2) No property, movable or immovable, including any interest in, or in any company owning, any commercial or industrial undertaking, shall be taken 20 possession of or acquired for public purposes under any law authorising the taking of such possession or such acquisition, unless the law provides for the payment of compensation for the property taken possession of or acquired and either fixes the amount 25 of the compensation, or specifies the principles on which, and the manner in which, the compensation is to be determined.

(3) Nothing in clause (2) of this article shall affect— 30

(a) the provisions of any existing law, or

(b) the provisions of any law which the State may hereafter make for the purpose of imposing or levying any tax or for the promotion of public health or the preven- 35 tion of danger to life or property.

Right to Constitutional Remedies

Remedies for enforcement of rights conferred by this Part.

25. (1) The right to move the Supreme Court by appropriate proceedings for the enforcement of the rights conferred by this Part is guaranteed. 40

(2) The Supreme Court shall have power to issue directions or orders in the nature of the writs of

habeas corpus, mandamus, prohibition, quo warranto and certiorari, whichever may be appropriate, for the enforcement of any of the rights conferred by this Part.

(3) Parliament may by law empower any other court to exercise within the local limits of its jurisdiction all or any of the powers exercisable by the Supreme Court under clause (2) of this article. 5

(4) The rights guaranteed by this article shall not be suspended except as otherwise provided for by this Constitution. 10

Power to
Parliament to
modify the
rights
guaranteed
in this Part
in their appli-
cation to
Forces.

26. Parliament may by law determine to what extent any of the rights guaranteed in this Part shall in their application to the members of the Armed Forces or the Forces charged with the main- 15
tenance of public order be restricted or abrogated so as to ensure the proper discharge of their duties and the maintenance of discipline among them.

Legislation to
give effect to
the provi-
sions of this
Part.

27. Notwithstanding anything elsewhere con- 20
tained in this Constitution, Parliament shall have, and the Legislature of a State for the time being specified in Part I or Part III of the First Schedule shall not have, power to make laws—

(a) with respect to any of the matters which under this Part are required to be provided for 25
by legislation by Parliament, and

(b) for prescribing punishment for those acts which are declared to be offences under this Part;

and Parliament shall, as soon as may be after the 30
commencement of this Constitution, make laws to provide for such matters and for prescribing punishment for such acts :

Provided that any law in force in the territory of India or in any part thereof with respect to any of 35
the matters referred to in clause (a) of this article or providing for punishment for any act which is declared to be an offence under this Part shall continue in force therein until altered or repealed or amended by Parliament or other competent authority.

PART IV

Directive Principles of State Policy

Definition.

28. In this Part, unless the context otherwise requires, "the State" has the same meaning as in Part III of this Constitution.

5

Application of the principles set forth in this Part.

29. The provisions contained in this Part shall not be enforceable by any court, but the principles therein laid down are nevertheless fundamental in the governance of the country and it shall be the duty of the State to apply these principles in making 10 laws.

State to secure a social order for the promotion and welfare of the people.

30. The State shall strive to promote the welfare of the people by securing and protecting as effectively as it may a social order in which justice, social, economic and political, shall inform all the institu- 15 tions of the national life.

Certain principles of policy to be followed by the State.

31. The State shall, in particular, direct its policy towards securing—

- (i) that the citizens, men and women equally, have the right to an adequate means of 20 livelihood;
- (ii) that the ownership and control of the material resources of the community are so distributed as best to subserve the common good; 25
- (iii) that the operation of the economic system does not result in the concentration of wealth and means of production to the common detriment;
- (iv) that there is equal pay for equal work for 30 both men and women;
- (v) that the strength and health of workers, men and women and the tender age of children are not abused and that citizens are not forced by economic necessity to 40 enter avocations unsuited to their age or strength;
- (vi) that childhood and youth are protected against exploitation and against moral and material abandonment. 45

Right to work, to education and to public assistance in certain cases.

32. The State shall, within the limits of its economic capacity and development, make effective provision for securing the right to work, to education and to public assistance in case of unemployment, old age, sickness, disablement, and other cases of undeserved want. 5

Provision for just and humane conditions of work and maternity relief.

33. The State shall make provision for securing just and humane conditions of work and for maternity relief.

Living wage, etc., for workers.

34. The State shall endeavour to secure, by suitable legislation or economic organisation or in any other way, to all workers, industrial or otherwise, work, a living wage, conditions of work ensuring a decent standard of life and full enjoyment of leisure and social and cultural opportunities. 10 15

Uniform civil code for the citizens.

35. The State shall endeavour to secure for the citizens a uniform civil code throughout the territory of India.

Provision for free primary education.

36. Every citizen is entitled to free primary education and the State shall endeavour to provide, within a period of ten years from the commencement of this Constitution, for free and compulsory education for all children until they complete the age of fourteen years. 20

Promotion of educational and economic interests of Scheduled Castes, Scheduled tribes and other weaker sections.

37. The State shall promote with special care the educational and economic interests of the weaker sections of the people, and, in particular, of the Scheduled Castes and the scheduled tribes, and shall protect them from social injustice and all forms of exploitation. 25 30

Duty of the State to raise the level of nutrition and the standard of living and to improve public health.

38. The State shall regard the raising of the level of nutrition and the standard of living of its people and the improvement of public health as among its primary duties.

Protection,
preservation
and mainten-
ance of monu-
ments and
places and
objects of
national
importance.

39. It shall be the obligation of the State to protect every monument or place or object of artistic or historic interest, declared by Parliament by law to be of national importance, from spoliation, destruction, removal, disposal or export, as the case 5
may be, and to preserve and maintain according to law made by Parliament all such monuments or places or objects.

Promotion of
international
peace and
security.

40. The State shall promote international peace and security by the prescription of open, just and 10
honourable relations between nations, by the firm establishment of the understandings of international law as the actual rule of conduct among govern-
ments and by the maintenance of justice and respect for treaty obligations in the dealings of organised 15
people with one another.

PART V

The Union

CHAPTER I—The Executive

THE PRESIDENT AND VICE-PRESIDENT

- | | | |
|----------------------------------|--|----|
| The President of India. | 41. There shall be a President of India. | 5 |
| Executive power of the Union. | <p>42. (1) The executive power of the Union shall be vested in the President and may be exercised by him in accordance with the Constitution and the law.</p> <p>(2) Without prejudice to the generality of the foregoing provision, the supreme command of the Defence Forces of India shall be vested in the President and the exercise thereof shall be regulated by law.</p> <p>(3) Nothing in this article shall—</p> <p style="padding-left: 40px;">(a) be deemed to transfer to the President any functions conferred by any existing law on the Government of any State or other authority; or</p> <p style="padding-left: 40px;">(b) prevent Parliament from conferring by law functions on authorities other than the President.</p> | 10 |
| Election of President. | <p>43. The President shall be elected by the members of an electoral college consisting of—</p> <p style="padding-left: 40px;">(a) the members of both Houses of Parliament, and</p> <p style="padding-left: 40px;">(b) the elected members of the Legislatures of the States.</p> | 25 |
| Manner of election of President. | <p>44. (1) As far as practicable, there shall be uniformity in the scale of representation of the different States at the election of the President.</p> | 30 |

*(2) For the purpose of securing such uniformity the number of votes which each elected member of Parliament and of the Legislature of each State is entitled to cast at such election shall be determined in the following manner:—

5

(a) every elected member of the Legislature of a State shall have as many votes as there are multiples of one thousand in the quotient obtained by dividing the population of the State by the total number of elected members of the Legislature;

10

*The method of calculation set out in clause (2) of article 44 may be illustrated as follows:—

Illustrations to sub-clauses (a) and (b) of clause (2):—

(i) The population of Bombay is 20,849,840. Let us take the total number of elected members in the Legislative Assembly of Bombay to be 208 (*i.e.*, one member representing one lakh of the population). To obtain the number of votes which each such elected member will be entitled to cast at the election of the President, we have first to divide 20,849,840 (which is the population) by 208 (which is the total number of elected members), and then to divide the quotient by 1,000. In this case, the quotient is 100239. The number of votes which each such member will be entitled to cast would be $100,239/1000$ *i.e.*, 100 (disregarding the remainder 239 which is less than five hundred).

(ii) Again, the population of Bikaner is 1,292,938. Let us take the total number of elected members of the Legislature of Bikaner to be 130 (*i.e.*, one member representing roughly ten thousand of the population). Now, applying the aforesaid process, if we divide 1,292,938 (*i.e.*, the population) by 130 (*i.e.*, the total number of elected members), the quotient is 9945. Therefore, the number of votes which each member of the Bikaner Legislature would be entitled to cast is $9945/1000$ that is 10 (counting the remainder 945 which is greater than five hundred as equivalent to 1000).

Illustration under sub-clause (c) of clause (2):—*

If the total number of votes assigned to the members of the Legislatures of the States in accordance with the above calculation be 74,940 and the total number of elected members of both the Houses of Parliament be 750, then to obtain the number of votes which each member of either House of Parliament will be entitled to cast at the election of the President, we should have to divide 74,940 by 750. Thus the number of votes which each such member will be entitled to cast in the case would be $\frac{74,940}{750} = 99\frac{23}{25}$, *i. e.*, 100 (the fraction $\frac{23}{25}$ which exceeds one-half being counted as one).

(b) if, after taking the said multiples of one thousand, the remainder is not less than five hundred, then the vote of each member referred to in sub-clause (a) of this clause shall be further increased by one;

(c) each elected member of either House of Parliament shall have such number of votes as may be obtained by dividing the total number of votes assigned to the members of the Legislatures of the States under sub-clauses (a) and (b) of this clause by the total number of such members, fractions exceeding one-half being counted as one and other fractions being disregarded. 5 10

(3) The election of the President shall be held in accordance with the system of proportional representation by means of the single transferable vote and the voting at such election shall be by secret ballot. 15

Explanation.—In this article, the expression “the Legislature of a State” means, where the Legislature is bicameral, the Lower House of the Legislature, and the expression “population” means the population as ascertained at the last preceding census.

Term of office
of President.

45. The President shall hold office for a term of five years from the date on which he enters upon his office:

25

Provided that—

(a) the President may, by resignation under his hand addressed to the Chairman of the Council of States and the Speaker of the House of the People, resign his office; 30

(b) the President may, for violation of the Constitution, be removed from office by impeachment in the manner provided in article 50 of this Constitution;

(c) the President shall, notwithstanding the expiration of his term, continue to hold office until his successor enters upon his office. 35

Eligibility for
re-election.

46. A person who holds, or who has held, office as President shall be eligible for re-election to that office once, but only once. 40

Qualifications
for election
as President.

47. (1) No person shall be eligible for election as President unless he—

(a) is a citizen of India,

(b) has completed the age of thirty-five years,
and

(c) is qualified for election as a member of the
House of the People.

(2) A person shall not be eligible for election as 5
President if he holds any office or position of emolu-
ment under the Government of India or the Govern-
ment of any State or under any local or other autho-
rity subject to the control of any of the said Govern-
ments. 10

Explanation.—For the purposes of this clause a
person shall not be deemed to hold any office or posi-
tion of emolument by reason only that—

(a) he is a minister either for India or for any
State for the time being specified in Part 15
I of the First Schedule; or

(b) he is a minister for any State for the time
being specified in Part III of the First
Schedule, if he is responsible to the Legis-
lature of the State, or, where there are 20
two Houses of the Legislature of the
State, to the Lower House of the Legisla-
ture, and if not less than three-fourths of
the members of the Legislature or House,
as the case may be, are elected. 25

Conditions of
President's
office.

48. (1) The President shall not be a member
either of Parliament or of the Legislature of any
State, and if a member of Parliament or of the Legis-
lature of any State be elected President, he shall be
deemed to have vacated his seat in Parliament or such 30
Legislature, as the case may be, on the date on which
he enters upon his office as President.

(2) The President shall not hold any other office
or position of emolument.

(3) The President shall have an official residence 35
and there shall be paid to the President such
emoluments and allowances as may be determined by
Parliament by law and, until provision in that behalf
is so made, such emoluments and allowances as are
specified in the Second Schedule. 40

(4) The emoluments and allowances of the
President shall not be diminished during his term of
office.

Affirmation
or oath by
the President
or person
acting as,
or discharging
the functions
of the,
President
before en-
tering office.

49. Every President and every person acting as President or discharging the functions of the President shall before entering upon his office make and subscribe in the presence of the Chief Justice of India an affirmation or oath in the following form, that is 5
to say—

“I, A. B., do solemnly affirm (or swear) that I will faithfully execute the office of President (or discharge the functions of the President) of India and will to the best of my ability 10 preserve, protect and defend the Constitution and the law and that I will devote myself to the service and well-being of the people of India.”

Procedure for
impeachment
of the Presi-
dent.

50. (1) When a President is to be impeached for 15
violation of the Constitution, the charge shall be preferred by either House of Parliament.

(2) No such charge shall be preferred unless—

(a) the proposal to prefer such charge is contained in a resolution which has been 20
moved after a notice in writing signed by not less than thirty members of the House has been given of their intention to move the resolution, and

(b) such resolution has been supported by not 25
less than two-thirds of the total membership of the House.

(3) When a charge has been so preferred by either House of Parliament, the other House shall investigate the charge or cause the charge to be investigated 30
and the President shall have the right to appear and to be represented at such investigation.

(4) If as a result of the investigation a resolution is passed, supported by not less than two-thirds of the total membership of the House by which the 35
charge was investigated or caused to be investigated, declaring that the charge preferred against the President has been sustained, such resolution shall have the effect of removing the President from his office as from the date on which the resolution is so 40
passed.

Time of holding elections to fill vacancies in the office of President and the term of office of persons elected to fill casual vacancies.

51. (1) An election to fill a vacancy caused by the expiration of the term of office of President shall be completed before the expiration of the term.

(2) An election to fill a vacancy in the office of President occurring by reason of his death, resignation or removal, or otherwise shall be held as soon as possible after, and in no case later than six months from, the date of occurrence of the vacancy; and the person elected to fill the vacancy shall be entitled to hold office for the full term of five years as provided in article 45 of this Constitution. 5 10

The Vice-President of India.

52. There shall be a Vice-President of India.

The Vice-President to be ex-officio Chairman of the Council of States.

53. The Vice-President shall be ex-officio Chairman of the Council of States and shall not hold any other office or position of emolument: 15

Provided that during any period when the Vice-President acts as President or discharges the functions of the President under article 54 of this Constitution, he shall not perform the duties of the office of Chairman of the Council of States. 20

The Vice-President to act as President or to discharge his functions during casual vacancies in the office, or the absence, of the President.

54. (1) In the event of the occurrence of any vacancy in the office of the President by reason of his death, resignation or removal, or otherwise, the Vice-President shall act as President until the date on which a new President elected in accordance with the provisions of this Chapter to fill such vacancy enters upon his office. 25

(2) When the President is unable to discharge his functions owing to absence, illness or any other cause, the Vice-President shall discharge his functions until the date on which the President resumes his duties. 30

(3) The Vice-President shall, during, and in respect of, the period while he is so acting as, or discharging the functions of the, President, have all the powers and immunities of the President. 35

Election of Vice-President.

55. (1) The Vice-President shall be elected by the members of both Houses of Parliament assembled at a joint meeting in accordance with the system of

proportional representation by means of the single transferable vote and the voting at such election shall be by secret ballot.

(2) The Vice-President shall not be a member either of Parliament or of the Legislature of any State, and if a member of Parliament or of the Legislature of any State be elected Vice-President, he shall be deemed to have vacated his seat in Parliament or such Legislature, as the case may be, on the date on which he enters upon his office as Vice-President. 10

(3) No person shall be eligible for election as Vice-President unless he—

- (a) is a citizen of India;
- (b) has completed the age of thirty-five years; and 15
- (c) is qualified for election as a member of the Council of States.

(4) A person shall not be eligible for election as Vice-President if he holds any office or position of emolument under the Government of India or the Government of any State or under any local or other authority subject to the control of any of the said Governments. 20

Explanation.—For the purposes of this clause, a person shall not be deemed to hold any office or position of emolument by reason only that— 25

- (a) he is a minister either for India or for any State for the time being specified in Part I of the First Schedule; or
- (b) he is a minister for any State for the time being specified in Part III of the First Schedule, if he is responsible to the Legislature of the State, or, where there are two Houses of the Legislature of the State, to the Lower House of such Legislature, and if not less than three-fourths of the members of such Legislature or House, as the case may be, are elected. 30 35

(5) An election to fill a vacancy caused by the expiration of the term of office of Vice-President shall be completed before the expiration of the term. 40

(6) An election to fill a vacancy in the office of Vice-President occurring by reason of his death, resignation or removal, or otherwise shall be held as soon as possible after the occurrence of the vacancy, and the person elected to fill such vacancy shall be 5 entitled to hold office for the full term of five years as provided in article 56 of this Constitution.

Term of
office of
Vice-Presi-
dent.

56. The Vice-President shall hold office for a term of five years from the date on which he enters upon his office; 10

Provided that—

(a) a Vice-President may, by writing under his hand addressed to the President, resign his office;

(b) a Vice-President may be removed from his 15 office for incapacity or want of confidence by a resolution of the Council of States passed by a majority of all the then members of the Council and agreed to by the House of the People; but no resolution for 20 the purpose of this clause shall be moved unless at least fourteen days' notice has been given of the intention to move the resolution;

(c) a Vice-President shall, notwithstanding the 25 expiration of his term, continue to hold office until his successor enters upon his office.

Power of
Parliament to
provide for
the discharge
of the func-
tions of the
President in
any other
contingency.

57. Parliament may make such provision as it thinks fit for the discharge of the functions of the 30 President in any contingency not provided for in this Chapter.

Matters relat-
ing to or con-
nected with
the election of
a President
or Vice-Presi-
dent.

58. (1) All doubts and disputes arising out of or in connection with the election of a President or Vice-President shall be inquired into and decided by 35 the Supreme Court whose decision shall be final.

(2) Subject to the provisions of this Constitution, Parliament may by law regulate any matter relating to or connected with the election of a President or Vice-President.

Power of President to grant pardons, etc., and to suspend, remit or commute sentences in certain cases.

59. (1) The President shall have the power to 5
grant pardons, reprieves, respites or remissions of punishment or to suspend, remit or commute the sentence of any person convicted of any offence—

(a) in all cases where the punishment or sentence is by a Court Martial; 10

(b) in all cases where the punishment or sentence is for an offence under any law relating to a matter with respect to which Parliament has, and the Legislature of the State in which the offence is committed 15
has not, power to make laws;

*(c) in all cases where the sentence is a sentence of death.

(2) Nothing in sub-clause (a) of clause (1) of this article shall affect the power conferred by law on any 20
officer of the Armed Forces of India to suspend, remit or commute a sentence passed by a Court Martial.

(3) Nothing in sub-clause (c) of clause (1) of this article shall affect the power to suspend, remit or 25
commute a sentence of death exercisable by the Governor or the Ruler of the State under any law for the time being in force.

Extent of executive power of the Union.

60. (1) Subject to the provisions of this Constitution, the executive power of the Union shall 30
extend—

(a) to the matters with respect to which Parliament has power to make laws; and

(b) to the exercise of such rights, authority and jurisdiction as are exercisable by the 35
Government of India by virtue of any treaty or agreement:

*The Committee is of opinion that the President should have power to suspend, remit or commute a death sentence passed in any State, without prejudice to the powers of the Governor or Ruler.

*Provided that the executive power referred to in sub-clause (a) of this clause shall not, save as expressly provided in this Constitution or in any law made by Parliament, extend in any State to matters with respect to which the Legislature of the State 5 has also power to make laws.

(2) Until otherwise provided by Parliament, a State and any officer or authority of a State may, notwithstanding anything contained in this article, continue to exercise in matters with respect to which 10 Parliament has power to make laws for that State such executive power or functions as the State or officer or authority thereof could exercise immediately before the commencement of this Constitution.

Council of Ministers

15

Council of ministers to aid and advise President.

61. (1) There shall be a Council of ministers with the Prime Minister at the head to aid and advise the President in the exercise of his functions.

(2) The question whether any, and if so what, advice was tendered by ministers to the President 20 shall not be inquired into in any court.

Other provisions as to ministers.

62. (1) The Prime Minister shall be appointed by the President and the other ministers shall be appointed by the President on the advice of the Prime Minister. 25

(2) The ministers shall hold office during the pleasure of the President.

(3) The Council shall be collectively responsible to the House of the People.

(4) Before a minister enters upon his office, the 30 President shall administer to him the oaths of office and of secrecy according to the forms set out for the purpose in the Third Schedule.

*The Committee has inserted this proviso on the view that the executive power in respect of Concurrent List subjects should vest primarily in the State concerned except as otherwise provided in the Constitution or in any law made by Parliament.

(5) A minister who, for any period of six consecutive months, is not a member of either House of Parliament shall at the expiration of that period cease to be a minister.

(6) The salaries and allowances of ministers shall be such as Parliament may from time to time by law determine and, until Parliament so determine, shall be as specified in the Second Schedule. 5

The Attorney-General for India

Attorney-General for India.

*63. (1) The President shall appoint a person, who is qualified to be appointed a judge of the Supreme Court, to be Attorney-General for India. 10

(2) It shall be the duty of the Attorney-General to give advice to the Government of India upon such legal matters and to perform such other duties of a legal character, as may from time to time be referred or assigned to him by the President, and to discharge the functions conferred on him by or under this Constitution or any other law for the time being in force. 15 20

(3) In the performance of his duties the Attorney-General shall have right of audience in all courts in the territory of India.

(4) The Attorney-General shall hold office during the pleasure of the President, and shall receive such remuneration as the President may determine. 25

Conduct of Government Business

Conduct of business of the Government of India.

64. (1) All executive action of the Government of India shall be expressed to be taken in the name of the President. 30

(2) Orders and other instruments made and executed in the name of the President shall be authenticated in such manner as may be specified

*The Committee has substituted the term "Attorney-General for India" for "Advocate-General for India" partly to distinguish him from the Provincial Advocates-General and partly to follow the terminology prevalent in other countries like the U.K. and the U.S.A.

in rules to be made by the President, and the validity of an order or instrument which is so authenticated shall not be called in question on the ground that it is not an order or instrument made or executed by the President.

5

Duties of
Prime Minister as respects the
furnishing of
information
to the President, etc.

65. It shall be the duty of the Prime Minister—

- (a) to communicate to the President all decisions of the Council of ministers relating to the administration of the affairs of the Union and proposals for legislation; 10
- (b) to furnish such information relating to the administration of the affairs of the Union and proposals for legislation as the President may call for; and
- (c) if the President so requires, to submit for the 15 consideration of the Council of ministers any matter on which a decision has been taken by a minister but which has not been considered by the Council.

CHAPTER II—Parliament

20

GENERAL

Constitution
of Parliament.

66. There shall be a Parliament for the Union which shall consist of the President and two Houses to be known respectively as the Council of States and the House of the People.

25

Composition
of Houses of
Parliament.

67. (1) The Council of States shall consist of two hundred and fifty members of whom—

- (a) fifteen members shall be nominated by the President in the manner provided in clause (2) of this article; and 30
- (b) the remainder shall be representatives of the States:

Provided that the total number of representatives of the States for the time being specified in Part III of the First Schedule shall not exceed forty per cent 35 of this remainder.

***(2) The members to be nominated by the President under sub-clause (a) of clause (1) of this article shall consist of persons having special knowledge or practical experience in respect of such matters as the following, namely,—**

5

- (a) literature, art, science and education;
- (b) agriculture, fisheries and allied subjects;
- (c) engineering and architecture;
- (d) public administration and social services.

(3) The representatives of each State for the 10 time being specified in Part I or Part III of the First Schedule in the Council of States shall—

- (a) where the Legislature of the State has two Houses, be elected by the elected members of the Lower House; 15
- (b) where the Legislature of the State has only one House, be elected by the elected members of that House; and
- (c) where there is no House of the Legislature for the State, be chosen in such manner 20 as Parliament may by law prescribe.

(4) The representatives of the States for the time being specified in Part II of the First Schedule in the Council of States shall be chosen in such manner as Parliament may by law prescribe. 25

*The Committee is of opinion that not more than fifteen members should be nominated by the President to represent special interests in the Council of States and that no special representation for Labour or Commerce and Industry is necessary in view of adult suffrage. The Committee understands that the panel system of election hitherto in force under the Irish Constitution has proved very unsatisfactory in practice. In the absence of any other guidance in this matter the Committee has provided for nomination by the President in place of election, while retaining a certain measure of functional representation. Since the Committee has had to substitute nomination for election and as the Committee thinks that no special representation for Labour or Commerce and Industry is necessary, the Committee is of opinion that it would be enough to provide for fifteen nominated members.

(5) (a) Subject to the provisions of articles 292 and 293 of this Constitution, the House of the People shall consist of not more than five hundred representatives of the people of the territories of the States directly chosen by the voters. 5

(b) For the purpose of sub-clause (a), the States of India shall be divided, grouped or formed into territorial constituencies and the number of representatives to be allotted to each such constituency shall be so determined as to ensure that there shall be not less than one representative for every 750,000 of the population and not more than one representative for every 500,000 of the population: 10

Provided that the ratio of the total number of representatives of the States for the time being specified in Part III of the First Schedule to their total population shall not be in excess of the ratio of the total number of representatives of the States for the time being specified in Parts I and II of that Schedule to the total population of such States. 15 20

(c) The ratio between the number of members to be elected at any time for each territorial constituency and the population of that constituency as ascertained at the last preceding census shall, so far as practicable, be the same throughout India. 25

(6) The election to the House of the People shall be on the basis of adult suffrage; that is to say, every citizen who is not less than twenty-one years of age and is not otherwise disqualified under this Constitution or under any Act of Parliament on the ground of non-residence, unsoundness of mind, crime or corrupt or illegal practice shall be entitled to be registered as a voter at such elections, 30

(7) Parliament may, by law, provide for the representation in the House of the People of territories other than States. 35

(8) Upon the completion of each census the representation of the several States in the Council of States and of the several territorial constituencies in the House of the People shall, subject to the provisions of article 289 of this Constitution, be 40

readjusted by such authority, in such manner and with effect from such date as Parliament may, by law, determine.

(9) When States for the time being specified in Part III of the First Schedule are grouped together 5 for the purpose of returning representatives to the Council of States, the entire group shall be deemed to be a single State for the purposes of this article.

Duration of
Houses of
Parliament.

68. (1) The Council of States shall not be subject to dissolution, but as nearly as possible one-third of 10 the members thereof shall retire as soon as may be on the expiration of every second year in accordance with the provisions made in that behalf by Parliament by law.

(2) The House of the People, unless sooner dis- 15 solved, shall continue for *five years from the date appointed for its first meeting and no longer, and the expiration of the said period of *five years shall operate as the dissolution of the House:

Provided that the said period may, while a Pro- 20 clamation of Emergency is in operation, be extended by the President for a period not exceeding one year at a time and not extending in any case beyond a period of six months after the Proclamation has ceased to operate. 25

Sessions of
Parliament,
prorogation
and dissolu-
tion.

69. (1) The Houses of Parliament shall be summoned to meet twice at least in every year, and six months shall not intervene between their last sitting in one session and the date appointed for their first sitting in the next session. 30

(2) Subject to the provisions of this article, the President may from time to time—

(a) summon the Houses or either House of Par-
liament to meet at such time and place as
he thinks fit; 35

*The Committee has inserted "five years" instead of "four years" as the life of the House of the People as it considers that under the Parliamentary system of Government the first year of a minister's term of office would generally be taken up in gaining knowledge of the work of administration and the last year would be taken up in preparing for the next general election, and there would thus be only two years left for effective work which would be too short a period for planned administration.

- (b) prorogue the Houses;
- (c) dissolve the House of the People.

Right of President to address and send messages to Houses.

70. (1) The President may address either House of Parliament or both Houses assembled together, and for that purpose require the attendance of 5 members.

(2) The President may send messages to either House of Parliament, whether with respect to a Bill then pending in Parliament or otherwise, and a House to which any message is so sent shall with all 10 convenient despatch consider any matter required by the message to be taken into consideration.

Special address by the President at the commencement of each session of Parliament and discussion in Parliament of matters referred to in the address.

71. (1) At the commencement of every session the President shall address both Houses of Parliament assembled together and inform Parliament of 15 the causes of its summons.

(2) Provision shall be made by the rules regulating the procedure of either House for the allotment of time for discussion of the matters referred to in such address and for the precedence of such discussion over other business of the House. 20

Right of ministers and Attorney-General as respects Houses.

72. Every minister and the Attorney-General of India shall have the right to speak in, and otherwise to take part in the proceedings of, either House, any joint sitting of the Houses and any committee 25 of Parliament of which he may be named a member, but shall not by virtue of this article be entitled to vote.

Officers of Parliament

The Chairman and Deputy Chairman of the Council of States.

73. (1) The Vice-President of India shall be ex-officio Chairman of the Council of States. 30

(2) The Council of States shall, as soon as may be, choose a member of the Council to be Deputy Chairman thereof, and so often as the office of Deputy Chairman becomes vacant the Council shall 35 choose another member to be Deputy Chairman thereof.

Vacation and resignation of, and removal from, the office of, Deputy Chairman.

74. A member holding office as Deputy Chairman of the Council of States—

- (a) shall vacate his office if he ceases to be a 40 member of the Council;

(b) may at any time, by writing under his hand addressed to the Chairman, resign his office; and

(c) may be removed from his office for incapacity or want of confidence by a resolution of the Council passed by a majority of all the then members of the Council:

Provided that no resolution for the purpose of clause (c) of this article shall be moved unless at least fourteen days' notice has been given of the intention to move the resolution.

Power of the Deputy Chairman or other persons to perform the duties of the office of, or to act as, Chairman.

75. (1) While the office of Chairman is vacant, or during any period when the Vice-President is acting as, or discharging the functions of the, President under article 54 of this Constitution, the duties of the office shall be performed by the Deputy Chairman, or if the office of Deputy Chairman is also vacant, by such member of the Council of States as the President may appoint for the purpose.

(2) During the absence of the Chairman from any sitting of the Council of States, the Deputy Chairman or, if he is also absent, such person as may be determined by the rules of procedure of the Council, or, if no such person is present, such other person as may be determined by the Council, shall act as Chairman.

The Speaker and Deputy Speaker of the House of the People.

76. The House of the People shall, as soon as may be, choose two members of the House to be respectively Speaker and Deputy Speaker thereof, and, so often as the office of Speaker or Deputy Speaker becomes vacant, the House shall choose another member to be Speaker or Deputy Speaker, as the case may be.

Vacation and resignation of, and removal from, the offices of Speaker and Deputy Speaker.

77. A member holding office as Speaker or Deputy Speaker of the House of the People— 35

(a) shall vacate his office if he ceases to be a member of the House of the People;

(b) may at any time by writing under his hand addressed, if such member is the Speaker, to the Deputy Speaker, and if such member is the Deputy Speaker, to the Speaker, resign his office; and 40

(c) may be removed from his office for incapacity or want of confidence by a resolution of the House of the People passed by a majority of all the then members of the House:

5

Provided that no resolution for the purpose of clause (c) of this article shall be moved unless at least fourteen days' notice has been given of the intention to move the resolution:

Provided further that, whenever the House of the People is dissolved, the Speaker shall not vacate his office until immediately before the first meeting of the House of the People after the dissolution.

Power of the Deputy Speaker or other persons to perform the duties of the office of, or to act as, Speaker.

78. (1) While the office of Speaker is vacant, the duties of the office shall be performed by the Deputy Speaker, or if the office of Deputy Speaker is also vacant, by such member of the House of the People as the President may appoint for the purpose.

(2) During the absence of the Speaker from any sitting of the House of the People, the Deputy Speaker or, if he is also absent, such person as may be determined by the rules of procedure of the House, or, if no such person is present, such other person as may be determined by the House, shall act as Speaker.

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Salaries and allowances of the Chairman and Deputy Chairman and the Speaker and the Deputy Speaker.

79. There shall be paid to the Chairman and the Deputy Chairman of the Council of States, and to the Speaker and the Deputy Speaker of the House of the People, such salaries and allowances as may be respectively fixed by Parliament by law, and, until provision in that behalf is so made, such salaries and allowances as are specified in the Second Schedule.

Conduct of Business

Voting in Houses; power of Houses to act notwithstanding vacancies and quorum.

80. (1) Save as provided in this Constitution, all questions at any sitting or joint sitting of the Houses shall be determined by a majority of votes of the members present and voting, other than the Chairman or Speaker or person acting as such.

The Chairman or Speaker or person acting as such shall not vote in the first instance, but shall have

40

and exercise a casting vote in the case of an equality of votes.

(2) Either House of Parliament shall have power to act notwithstanding any vacancy in the membership thereof, and any proceedings in Parliament shall be valid notwithstanding that it is discovered subsequently that some person who was not entitled so to do sat or voted or otherwise took part in the proceedings. 5

(3) If at any time during a meeting of a House, less than one-sixth of the total number of members of the House are present, it shall be the duty of the Chairman or Speaker or person acting as such either to adjourn the House, or to suspend the meeting until at least one-sixth of the members are present. 15

Disqualifications of Members

Declaration
by members.

81. Every member of either House of Parliament shall, before taking his seat, make and subscribe before the President, or some person appointed in that behalf by him, a declaration according to the form set out for the purpose in the Third Schedule. 20

Vacation of
seats.

82. (1) No person shall be a member of both Houses of Parliament and provision shall be made by Parliament by law for the vacation by a person who is chosen a member of both Houses of his seat in one House or the other. 25

(2) If a member of either House of Parliament—

(a) becomes subject to any of the disqualifications mentioned in clause (1) of the next succeeding article; or 30

(b) resigns his seat by writing under his hand addressed to the Chairman or the Speaker, as the case may be,

his seat shall thereupon become vacant.

(3) If for a period of sixty days a member of either House of Parliament is without permission of the House absent from all meetings thereof, the House may declare his seat vacant: 35

Provided that in computing the said period of sixty days no account shall be taken of any period during which the House is prorogued or is adjourned for more than four consecutive days. 40

Disqualifica-
tion: for
membership.

83. (1) A person shall be disqualified for being chosen as, and for being, a member of either House of Parliament—

- (a) if he holds any office of profit under the Government of India or the Government of any State other than an office declared by Parliament by law not to disqualify its holder; 5
- (b) if he is of unsound mind and stands so declared by a competent court; 10
- (c) if he is an undischarged insolvent;
- *(d) if he is under any acknowledgment of allegiance or adherence to a foreign power, or is a subject or a citizen or entitled to the rights or privileges of a subject or a citizen of a foreign power; and 15
- (e) if he is so disqualified by or under any law made by Parliament.

(2) For the purposes of this article a person shall not be deemed to hold an office of profit under the Government of India or the Government of any State by reason only that— 20

- (a) he is a minister either for India or for any State for the time being specified in Part I of the First Schedule; or 25
- (b) he is a minister for any State for the time being specified in Part III of the First Schedule, if he is responsible to the Legislature of the State, or where there are two Houses of the Legislature of the State, to the Lower House of such Legislature and if not less than three-fourths of the members of such Legislature or House, as the case may be, are elected. 30

Penalty for sitting and voting before making declaration under article 81 or when not qualified or when disqualified.

84. If a person sits or votes as a member of either House of Parliament before he has complied with the requirements of article 81 of this Constitution, or when he knows that he is not qualified, or that he is disqualified for membership thereof, or that he is prohibited from so doing by the provisions of any law made by Parliament, he shall be 35 40

* The Committee has inserted this sub-clause, following the provisions of section 44 (i) of the Commonwealth of Australia Constitution Act.

liable in respect of each day on which he so sits or votes to a penalty of five hundred rupees to be recovered as a debt due to the Government of India.

Privileges and Immunities of Members

Privileges,
etc. of
members.

85. (1) Subject to the rules and standing orders 5 regulating the procedure of Parliament, there shall be freedom of speech in Parliament.

(2) No member of Parliament shall be liable to any proceedings in any court in respect of anything said or any vote given by him in Parliament or any 10 committee thereof, and no person shall be so liable in respect of the publication by or under the authority of either House of Parliament of any report, paper, votes or proceedings.

(3) In other respects, the privileges and immuni- 15 ties of members of the Houses shall be such as may from time to time be defined by Parliament by law, and, until so defined, shall be such as are enjoyed by the members of the House of Commons of the Parliament of the United Kingdom at the commence- 20 ment of this Constitution.

(4) The provisions of clauses (1), (2) and (3) of this article shall apply in relation to persons who by virtue of this Constitution have the right to speak in, and otherwise take part in the proceedings of, 25 a House of Parliament as they apply in relation to members of Parliament.

Salaries and
allowances of
members.

86. Members of either House of Parliament shall be entitled to receive such salaries and allowances as may from time to time be determined by Parliament 30 by law and, until provision in that respect is so made, allowances at such rates and upon such conditions as were immediately before the date of commencement of this Constitution applicable in the case of members of the Legislature of the Dominion 35 of India.

Legislative Procedure

Provisions as
to introduc-
tion and
passing of
Bills.

87. (1) Subject to the provisions of articles 89 and 97 of this Constitution with respect to Money Bills and other financial Bills, a Bill may originate in 40 either House of Parliament.

(2) Subject to the provisions of articles 88 and 89 of this Constitution, a Bill shall not be deemed to have been passed by the Houses of Parliament unless it has been agreed to by both Houses, either without amendment or with such amendments only 5 as are agreed to by both Houses.

(3) A Bill pending in Parliament shall not lapse by reason of the prorogation of the Houses.

(4) A Bill pending in the Council of States which has not been passed by the House of the People shall 10 not lapse on a dissolution of the House of the People.

(5) A Bill which is pending in the House of the People or which having been passed by the House of the People is pending in the Council of States shall, subject to the provisions of article 88 of this 15 Constitution, lapse on a dissolution of the House of the People.

Joint sitting
of both
Houses in
certain cases.

88. (1) If after a Bill has been passed by one House and transmitted to the other House—

- (a) the Bill is rejected by the other House; or 20
- (b) the Houses have finally disagreed as to the amendments to be made in the Bill; or
- (c) more than six months elapse from the date of the reception of the Bill by the other House without the Bill being passed by 25 it,

the President may, unless the Bill has lapsed by reason of a dissolution of the House of the People, notify to the Houses by message if they are sitting or by public notification if they are not sitting, his 30 intention to summon them to meet in a joint sitting for the purpose of deliberating and voting on the Bill:

Provided that nothing in this clause shall apply to a Money Bill. 35

(2) In reckoning any such period of six months as is referred to in clause (1) of this article, no account shall be taken of any time during which both Houses are prorogued or adjourned for more than four days. 40

(3) Where the President has under clause (1) of this article notified his intention of summoning the Houses to meet in a joint sitting, neither House shall proceed further with the Bill, but the President may at any time after the date of his notification summon 5 the Houses to meet in a joint sitting for the purpose specified in the notification and, if he does so, the Houses shall meet accordingly.

(4) If at the joint sitting of the two Houses the Bill with such amendments, if any, as are agreed to 10 in joint sitting, is passed by a majority of the total number of members of both Houses present and voting, it shall be deemed for the purposes of this Constitution to have been passed by both Houses:

Provided that at a joint sitting—

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(a) if the Bill, having been passed by one House, has not been passed by the other House with amendments and returned to the House in which it originated, no amendment shall be proposed to the Bill other 20 than such amendments (if any) as are made necessary by the delay in the passage of the Bill;

(b) if the Bill has been so passed and returned, only such amendments as aforesaid shall 25 be proposed to the Bill and such other amendments as are relevant to the matters with respect to which the Houses have not agreed;

and the decision of the person presiding as to the 30 amendments which are admissible under this clause shall be final.

(5) A joint sitting may be held under this article and a Bill passed thereat, notwithstanding that a dissolution of the House of the People has inter- 35 vened since the President notified his intention to summon the Houses to meet therein.

Special procedure in respect of Money Bills.

89. (1) A Money Bill shall not be introduced in the Council of States.

(2) After a Money Bill has been passed by the 40 House of the People it shall be transmitted to the Council of States for its recommendations and the Council of States shall within a period of thirty days

from the date of its receipt of the Bill return the Bill to the House of the People with its recommendations and the House of the People may thereupon either accept or reject all or any of the recommendations of the Council of States. 5

(3) If the House of the People accepts any of the recommendations of the Council of States, the Money Bill shall be deemed to have been passed by both Houses with the amendments recommended by the Council of States and accepted by the House of 10 the People.

(4) If the House of the People does not accept any of the recommendations of the Council of States, the Money Bill shall be deemed to have been passed by both Houses in the form in which it was passed by 15 the House of the People without any of the amendments recommended by the Council of States.

(5) If a Money Bill passed by the House of the People and transmitted to the Council of States for its recommendations is not returned to the House of 20 the People within the said period of thirty days, it shall be deemed to have been passed by both Houses at the expiration of the said period in the form in which it was passed by the House of the People.

Definition of "Money Bills" 90. (1) For the purposes of this Chapter, a Bill 25 shall be deemed to be a Money Bill if it contains only provisions dealing with all or any of the following matters, namely :—

- (a) the imposition, abolition, remission, alteration or regulation of any tax; 30
- (b) the regulation of the borrowing of money or the giving of any guarantee by the Government of India, or the amendment of the law with respect to any financial obligations undertaken or to be under- 35 taken by the Government of India;
- (c) supply;
- (d) the appropriation of the revenues of India;
- (e) the declaring of any expenditure to be expenditure charged on the revenues of 40 India or the increasing of the amount of any such expenditure;

(f) the receipt of money on account of the revenues of India or the custody or issue of such money or the audit of the accounts of the Government of India; or

(g) any matter incidental to any of the matters specified in items (a) to (f) of this clause. 5

(2) A Bill shall not be deemed to be a Money Bill by reason only that it provides for the imposition of fines or other pecuniary penalties, or for the demand or payment of fees for licences or fees for 10 services rendered or by reason that it provides for the imposition, abolition, remission, alteration or regulation of any tax by any local authority or body for local purposes.

(3) If any question arises whether a Bill is a 15 Money Bill or not, the decision of the Speaker of the House of the People thereon shall be final.

(4) There shall be endorsed on every Money Bill when it is transmitted to the Council of States under the last preceding article, and when it is presented 20 to the President for assent under the next succeeding article, the certificate of the Speaker of the House of the People signed by him that it is a Money Bill.

Assent to
Bills.

91. When a Bill has been passed by the Houses 25 of Parliament, it shall be presented to the President, and the President shall declare either that he assents to the Bill, or that he withholds assent therefrom:

Provided that the President may, not later than 30 six weeks after the presentation to him of a Bill for assent, return the Bill if it is not a Money Bill to the Houses with a message requesting that they will reconsider the Bill or any specified provision thereof, and, in particular, will consider the desirability 35 of introducing any such amendments as he may recommend in his message, and the Houses shall reconsider the Bill accordingly.

Procedure in Financial Matters

Annual financial statement

92. (1) The President shall in respect of every 40 financial year cause to be laid before both the Houses of Parliament a statement of the estimated receipts

and expenditure of the Government of India for that year, in this Part of this Constitution referred to as the "annual financial statement".

(2) The estimates of expenditure embodied in the annual financial statement shall show separately— 5

(a) the sums required to meet expenditure described by this Constitution as expenditure charged upon the revenues of India; and

(b) the sums required to meet other expenditure 10 proposed to be made from the revenues of India,

and shall distinguish expenditure on revenue account from other expenditure.

(3) The following expenditure shall be expendi- 15 ture charged on the revenues of India—

(a) the emoluments and allowances of the President and other expenditure relating to his office;

(b) the emoluments and allowances of the Chair- 20 man and the Deputy Chairman of the Council of States and the Speaker and the Deputy Speaker of the House of the People;

(c) debt charges for which the Government of 25 India is liable including interest, sinking fund charges and redemption charges, and other expenditure relating to the raising of loans and the service and redemption of debt; 30

(d) (i) the salaries, allowances and pensions payable to or in respect of judges of the Supreme Court;

(ii) the pensions payable to or in respect of judges of the Federal Court; 35

(iii) the pensions payable to or in respect of judges of any High Court which exercises or immediately before the commencement of this Constitution exercised jurisdiction within any 40 area included in the States for the time being specified in Parts I and II of the First Schedule;

- (e) any sums required to satisfy any judgment, decree or award of any court or arbitral tribunal; and
- (f) any other expenditure declared by this Constitution or by Parliament by law to be so charged. 5

Procedure in Parliament with respect to estimates.

93. (1) So much of the estimates as relates to expenditure charged upon the revenues of India shall not be submitted to the vote of Parliament, but nothing in this clause shall be construed as preventing the discussion in either House of Parliament of any of these estimates. 10

(2) So much of the said estimates as relates to other expenditure shall be submitted in the form of demands for grants to the House of the People and the House of the People shall have power to assent, or to refuse to assent to any demand, or to assent to any demand subject to a reduction of the amount specified therein. 15

(3) No demand for a grant shall be made except on the recommendation of the President. 20

Authentication of schedule of authorised expenditure.

94. (1) The President shall authenticate by his signature a schedule specifying—

(a) the grants made by the House of the People under the last preceding article; 25

(b) the several sums required to meet the expenditure charged on the revenues of India, but not exceeding in any case, the sum shown in the statement previously laid before Parliament. 30

(2) The schedule so authenticated shall be laid before the House of the People, but shall not be open to discussion or vote in Parliament.

(3) Subject to the provisions of the next two succeeding articles, no expenditure from the revenues of India shall be deemed to be duly authorised unless it is specified in the schedule so authenticated. 35

Supplementary statements of expenditure.

95. If in respect of any financial year further expenditure from the revenues of India becomes necessary over and above the expenditure theretofore authorised for that year, the President shall cause to be laid before both the Houses of Parliament a 40

supplementary statement showing the estimated amount of that expenditure, and the provisions of the preceding articles shall have effect in relation to that statement and that expenditure as they have effect in relation to the annual financial statement 5 and the expenditure mentioned therein.

Excess grants. *96. If in any financial year expenditure from the revenues of India has been incurred on any service for which the vote of the House of the People is necessary in excess of the amount granted for that 10 service and for that year, a demand for the excess shall be presented to the House of the People and the provisions of articles 93 and 94 of this Constitution shall have effect in relation to such demand as they have effect in relation to a demand for a grant. 15

Special provisions as to financial Bills.

97. (1) A Bill or amendment making provision for any of the matters specified in items (a) to (f) of clause (1) of article 90 of this Constitution shall not be introduced or moved except on the recommendation of the President and a Bill making such provision shall not be introduced in the Council of States: 20

Provided that no recommendation shall be required under this clause for the moving of an amendment making provision for the reduction or abolition of any tax. 25

(2) A Bill or amendment shall not be deemed to make provision for any of the matters aforesaid by reason only that it provides for the imposition of fines or other pecuniary penalties, or for the demand or payment of fees for licences or fees for services 30 rendered or by reason that it provides for the imposition, abolition, remission, alteration or regulation of any tax by any local authority or body for local purposes.

(3) A Bill which, if enacted and brought into 35 operation, would involve expenditure from the revenues of India shall not be passed by either House of Parliament unless the President has recommended to that House the consideration of the Bill.

*This article follows the recommendations of the Expert Committee on the Financial provisions of the Constitution.

Procedure Generally

Rules of pro-
cedure.

98. (1) Each House of Parliament may make rules for regulating, subject to the provisions of this Constitution, its procedure and the conduct of its business.

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(2) Until rules are made under clause (1) of this article, the rules of procedure and standing orders in force immediately before the commencement of this Constitution with respect to the Legislature of the Dominion of India shall have effect in relation to 10 Parliament subject to such modifications and adaptations as may be made therein by the Chairman of the Council of States or the Speaker of the House of the People, as the case may be.

(3) The President, after consultation with the 15 Chairman of the Council of States and the Speaker of the House of the People, may make rules as to the procedure with respect to joint sittings of, and communications between, the two Houses.

(4) At a joint sitting of the two Houses the 20 Speaker of the House of the People,* or in his absence such person as may be determined by rules of procedure made under clause (3) of this article, shall preside.

Language to
be used in
Parliament.

99. (1) In Parliament business shall be trans- 25 acted in Hindi or English:

Provided that the Chairman of the Council of States or the Speaker of the House of the People, as the case may be, may permit any member who cannot adequately express himself in either language to 30 address the House in his mother tongue.

(2) The Chairman of the Council of States or the Speaker of the House of the People may, whenever he thinks fit, make arrangements for making available in the Council of States or the House of the 35 People, as the case may be, a summary in Hindi or English of the speech delivered by a member in any other language and such summary shall be included in the record of the proceedings of the House in which the speech has been delivered.

*The Committee is of opinion that the Speaker of the House of the People should preside at a joint sitting of the two Houses of Parliament as the House of the People is the more numerous body.

Restrictions
on discussion
in Parlia-
ment.

100. (1) No discussion shall take place in Parlia-
ment with respect to the conduct of any judge of the
Supreme Court or a High Court in the discharge of
his duties except upon a motion for presenting an
address to the President praying for the removal of 5
the judge as hereinafter provided.

(2) In this article the reference to a High Court
shall be construed as including a reference to any
court in a State for the time being specified in
Part III of the First Schedule which is a High Court 10
for any of the purposes of Chapter IV of this Part.

Courts not to
inquire into
proceedings of
Parliament.

101. (1) The validity of any proceedings in
Parliament shall not be called in question on the
ground of any alleged irregularity of procedure.

(2) No officer or other member of Parliament in 15
whom powers are vested by or under this Constitu-
tion for regulating procedure or the conduct of
business, or for maintaining order, in Parliament
shall be subject to the jurisdiction of any court in
respect of the exercise by him of those powers. 20

CHAPTER III—Legislative Powers of the President

Power of
President to
promulgate
Ordinances
during recess
of Parlia-
ment.

102. (1) If at any time, except when both Houses
of Parliament are in session, the President is satisfi-
ed that circumstances exist which render it necessary 25
for him to take immediate action, he may promulgate
such Ordinances as the circumstances appear to him
to require.

(2) An Ordinance promulgated under this article
shall have the same force and effect as an Act of 30
Parliament assented to by the President, but every
such Ordinance—

(a) shall be laid before both Houses of Parlia-
ment and shall cease to operate at the
expiration of six weeks from the re- 35
assembly of Parliament, or, if before the
expiration of that period resolutions dis-
approving it are passed by both Houses,
upon the passing of the second of those
resolutions; and 40

(b) may be withdrawn at any time by the
President.

Explanation:—Where the Houses of Parliament are summoned to re-assemble on different dates, the period of six weeks shall be reckoned from the later of those dates for the purposes of this clause.

(3) If and so far as an Ordinance under this article makes any provision which Parliament would not under this Constitution be competent to enact, it shall be void. 5

CHAPTER IV—The Federal Judicature

Establish-
ment and
constitution
of Supreme
Court.

103. (1) There shall be a Supreme Court of India 10 consisting of a Chief Justice of India and such number of other judges not being less than *seven as Parliament may by law prescribe.

(2) Every judge of the Supreme Court shall be appointed by the President by warrant under his 15 hand and seal after consultation with such of the judges of the Supreme Court and of the High Courts in the States as may be necessary for the purpose and shall hold office until he attains the age of sixty-five years: 20

Provided that in the case of appointment of a judge, other than the Chief Justice, the Chief Justice of India shall always be consulted:

Provided further that—

(a) a judge may, by writing under his hand 25 addressed to the President, resign his office;

(b) a judge may be removed from his office in the manner provided in clause (4).

(3) A person shall not be qualified for appoint- 30 ment as a judge of the Supreme Court unless he is a citizen of India and—

(a) has been for at least five years a judge of a High Court or of two or more such courts in succession; or 35

* The Committee considers that seven judges would in the beginning be sufficient and Parliament might, by law, afterwards increase the number.

(b) has been for at least ten years an advocate of a High Court or of two or more such courts in succession.

Explanation I:—In this clause 'High Court' means a High Court which exercises, or which before the commencement of this Constitution exercised, jurisdiction in any part of the territory of India. 5

Explanation II:—In computing for the purpose of this clause the period during which a person has been an advocate, any period during which a person held judicial office after he became an advocate, shall be included. 10

(4) A judge of the Supreme Court shall not be removed from his office except by an order of the President passed after an address supported by not less than two-thirds of the members present and voting has been presented to the President by both Houses of Parliament in the same session for such removal on the ground of proved misbehaviour or incapacity. 15 20

(5) Parliament may by law regulate the procedure for the presentation of an address and for the investigation and proof of the misbehaviour or incapacity of a judge under the last preceding clause. 25

(6) Every person appointed to be a judge of the Supreme Court shall, before he enters upon his office, make and subscribe before the President or some person appointed in that behalf by him a declaration according to the form set out for the purpose in the Third Schedule. 30

(7) No person who has held office as a judge of the Supreme Court shall plead or act in any court or before any authority within the territory of India.

Salaries etc.
of judges.

104. The judges of the Supreme Court shall be entitled to such salaries and allowances, and to such rights in respect of leave and pensions, as may from time to time be fixed by or under law made by Parliament, and until they are so fixed shall be entitled to such salaries, allowances and rights in respect of leave of absence or pension as are specified in the Second Schedule: 35 40

Provided that neither the salary of a judge nor his rights in respect of leave of absence or pension shall be varied to his disadvantage after his appointment.

Appointment
of acting
Chief Justice.

105. When the office of Chief Justice of India is 5
vacant or when the Chief Justice is, by reason of
absence or otherwise, unable to perform the duties
of his office, the duties of the office shall be performed
by such one of the other judges of the court as the
President may appoint for the purpose. 10

Appointment
of ad hoc
judges.

106. (1) If at any time there should not be a
quorum of the judges of the Supreme Court avail
able to hold or continue any session of the court, the
Chief Justice may, after consultation with the Chief
Justice of the High Court concerned, request in 15
writing the attendance at the sittings of the court,
as an ad hoc judge, for such period as may be neces-
sary, of a judge of a High Court to be nominated
by the Chief Justice of India.

(2) It shall be the duty of the judge, who has 20
been so nominated, in priority to other duties of his
office, to attend the sittings of the Supreme Court at
the time and for the period for which his attendance
is required, and while so attending he shall have all
the jurisdiction, powers and privileges, and shall 25
discharge the duties, of a judge of the Supreme
Court.

Attendance
of retired
judges at
sittings of
the Supreme
Court.

*107. Notwithstanding anything contained in
this Chapter, the Chief Justice of India may at any
time, subject to the provisions of this article, request 30
any person who has held the office of a judge of the
Supreme Court or of the Federal Court to sit and act
as a judge of the Supreme Court, and every such
person so requested shall, while so sitting and acting,
have all the jurisdiction, powers and privileges of, 35
but shall not otherwise be deemed to be, a judge of
that court:

Provided that nothing in this article shall be
deemed to require any such person as aforesaid to sit
and act as a judge of that court unless he consents so 40
to do.

*The employment of retired judges follows the practice in the
United Kingdom and in the United States of America.

Seat of Supreme Court.

108. The Supreme Court shall be a court of record and shall sit in Delhi and at such other place or places, if any, as the Chief Justice may, with the approval of the President, from time to time, appoint.

5

Original jurisdiction of the Supreme Court.

109. Subject to the provisions of this Constitution, the Supreme Court shall, to the exclusion of any other Court, have original jurisdiction in any dispute—

- (a) between the Government of India and one or 10 more States, or
- (b) between the Government of India and any State or States on one side and one or more other States on the other; or
- (c) between two or more States, 15

if in so far as the dispute involves any question (whether of law or fact) on which the existence or extent of a legal right depends:

Provided that the said jurisdiction shall not extend to— 20

- (i) a dispute to which a State for the time being specified in Part III of the First Schedule is a party, if the dispute arises out of any provision of a treaty, agreement, engagement, sanad or other similar instrument 25 which was entered into or executed before the date of commencement of this Constitution and has, or has been, continued in operation after that date;
- (ii) a dispute to which any State is a party, if the 30 dispute arises out of any provision of a treaty, agreement, engagement, sanad or other similar instrument which provides that the said jurisdiction shall not extend to such a dispute. 35

Appellate jurisdiction of Supreme Court in appeals from High Courts in States in certain cases.

110. (1) An appeal shall lie to the Supreme Court from any judgment, decree or final order of a High Court in a State, whether in a civil, criminal or other proceeding, if the High Court certifies that the case involves a substantial question of law as to the interpretation of this Constitution. 40

(2) Where the High Court has refused to give such a certificate, the Supreme Court may, if it is satisfied that the case involves a substantial question of law as to the interpretation of this Constitution, grant special leave to appeal from such judgment, 5
decree or final order.

(3) Where such a certificate is given, or such leave is granted, any party in the case may appeal to the Supreme Court not only on the ground that any such question as aforesaid has been wrongly decided, but 10
also on any other ground.

Explanation.—For the purposes of this article, the expression “final order” includes an order deciding an issue which, if decided in favour of the appellant, would be sufficient for the final disposal 15
of the case.

Appellate jurisdiction of Supreme Court in appeals from High Courts in the territory of India except the States for the time being specified in Part III of the First Schedule in other cases.

111. (1) An appeal shall lie to the Supreme Court from a judgment, decree or final order in a civil proceeding of a High Court in the territory of India except the States for the time being specified in Part 20
III of the First Schedule, if the High Court certifies—

- (a) that the amount or value of the subject-matter of the dispute in the court of first instance and still in dispute on appeal 25
was and is not less than twenty thousand rupees; or
- (b) that the judgment, decree or final order involves directly or indirectly some claim or question respecting property of the like 30
amount or value; or
- (c) that the case is a fit one for appeal to the Supreme Court;

and, where the judgment, decree or final order appealed from affirms the decision of the court immediately below, in any case other than one referred to in clause (c), if the High Court further certifies that the appeal involves some substantial question of law. 35

(2) Notwithstanding anything contained in article 110 of this Constitution, any party appealing to the Supreme Court under clause (1) of this article may 40

urge as one of the grounds in such appeal that the case involves a substantial question of law as to the interpretation of this Constitution which has been wrongly decided.

Special leave to appeal by the Supreme Court in certain other cases.

112. The Supreme Court may, in its discretion, 5
grant special leave to appeal from any judgment, decree or final order in any cause or matter, passed or made by any court or tribunal in the territory of India except the States for the time being specified in Part III of the First Schedule, in cases where the 10
provisions of article 110 or article 111 of this Constitution do not apply.

Reference to the Supreme Court by High Courts in States for the time being specified in Part III of the First Schedule in certain cases.

113. (1) If in the course of any civil, criminal or other proceeding in a High Court in any State for the time being specified in Part III of the First 15
Schedule, any question as to the applicability or interpretation of any law of Parliament or of the Legislature of any State other than such State, which is material for the determination of any issue in such proceeding, arises, the High Court may, 20
either of its own motion or on the application of any of the parties, draw up a statement of the case with particular reference to such question with its own opinion thereon and refer such question to the Supreme Court for opinion. 25

(2) The Supreme Court may, where any such High Court refuses to state a case under clause (1) of this article, require a case to be so stated.

(3) When a case is so stated either under clause (1) or under clause (2) of this article, the High 30
Court shall stay all proceedings until the opinion of the Supreme Court is received.

(4) The Supreme Court shall, after giving the parties an opportunity of being heard, decide the question so referred, and shall cause a copy of its 35
opinion to be transmitted to the High Court and such High Court shall on receipt thereof proceed to dispose of the case in conformity with the opinion of the Supreme Court.

(5) The Supreme Court may at any stage return any case stated under this article in order that 40
further facts may be stated therein.

Enlargement
of the juris-
diction of
the Supreme
Court.

114. (1) The Supreme Court shall have such further jurisdiction and powers with respect to any of the matters in the Union List as Parliament may by law confer.

(2) The Supreme Court shall have such further 5
jurisdiction and powers with respect to any matter as the Government of India and any State may by special agreement confer, if Parliament by law provides for the exercise of such jurisdiction and powers by the Supreme Court. 10

Conferment
on the Sup-
reme Court
of powers
to issue cer-
tain writs.

115. Parliament may, by law, confer on the Supreme Court power to issue directions or orders in the nature of the writs of habeas corpus, mandamus, prohibition, quo warranto and certiorari, or any of them, for any purposes other than those mentioned in 15
clause (2) of article 25 (which relates to the enforce-
ment of fundamental rights) of this Constitution.

Ancillary
powers of
Supreme
Court.

116. Parliament may by law make provision for conferring upon the Supreme Court such supple- 20
mental powers not inconsistent with any of the pro-
visions of this Constitution as may appear to be
necessary or desirable for the purpose of enabling
the court more effectively to exercise the jurisdiction
conferred upon it by or under this Constitution.

Law declared
by Supreme
Court to
be binding
on all courts.

117. The law declared by the Supreme Court shall 25
be binding on all courts within the territory of India.

Enforcement
of decrees
and orders
of Supreme
Court and or-
ders as to dis-
covery, etc.

118. (1) The Supreme Court in the exercise of its jurisdiction may pass such decree or make such order as is necessary for doing complete justice in any cause or matter pending before it, and any decree so 30
passed or order so made shall be enforceable through-
out the territory of India in such manner as may be
prescribed by or under any law made by Parlia-
ment.

(2) Subject to the provisions of any law made 35
in this behalf by Parliament the Supreme Court shall,
as respects the whole of the territory of India, have
all and every power to make any order for the pur-
pose of securing the attendance of any person, the

discovery or production of any documents, or the investigation or punishment of any contempt of itself.

Power of
President
to consult
Supreme
Court.

119. (1) If at any time it appears to the President that a question of law or fact has arisen, or is likely to arise, which is of such a nature and such public importance that it is expedient to obtain the opinion of the Supreme Court upon it, he may refer the question to that court for consideration and the court may, after such hearing as it thinks fit, report to the President its opinion thereon. 5

(2) The President may, notwithstanding anything contained in clause (i) of the proviso to article 109 of this Constitution, refer a dispute of the kind mentioned in the said clause to the Supreme Court for decision, and the Supreme Court shall thereupon, after giving the parties an opportunity of being heard, decide the same and report the fact to the President. 15

Civil and
judicial
authorities
to act in aid
of the Sup-
reme Court.
Rules of
Court, etc.

120. All authorities, civil and judicial, in the territory of India shall act in aid of the Supreme Court. 20

*121. (1) Subject to the provisions of any law made by Parliament, the Supreme Court may from time to time, with the approval of the President, 25

*In the Supreme Court of the United States of America all the judges of the Court are entitled to participate in the hearing of every matter, and the Court never sits in divisions. The judges of that Court attach the greatest importance to this practice. The Committee is of opinion that this practice should be followed in India at least in two classes of cases, namely, those which involve questions of interpretation of the Constitution and those which are referred to the Supreme Court for opinion by the President. Whether the same practice should not be extended to other classes of cases is a matter which Parliament may regulate by law.

Item (b) giving the Court power to make rules for regulating the time to be allowed to advocates to make their submissions to the Court has also been inserted in the article. This follows the practice prevalent in the Supreme Court of the United States, where the advocates are normally allowed only one hour to argue each case, the rest of their submissions being in writing. (One member of the Committee, Shri Alladi Krishnaswami Ayyar, considers it unnecessary expressly to mention this power in this article, because in his view the position of the Supreme Court in India, in respect of its general appellate functions, is different from that of the Supreme Court of the United States.)

make rules for regulating generally the practice and procedure of the Court including—

- (a) rules as to the persons practising before the court,
- (b) rules as to the procedure for hearing appeals and other matters including the time within which appeals to the Court are to be entered and the time to be allowed to advocates appearing before the court to make their submissions in respect thereof, 5 10
- (c) rules as to the costs of and incidental to any proceedings in the court and as to the fees to be charged in respect of proceedings therein,
- (d) rules as to the granting of bail; 15
- (e) rules as to stay of proceedings, and
- (f) rules providing for the summary determination of any appeal which appears to the court to be frivolous or vexatious or brought for the purpose of delay. 20

(2) The minimum number of judges who are to sit for the purpose of deciding any case involving a substantial question of law as to the interpretation of this Constitution, or for the purpose of hearing any reference under article 119 of this Constitution shall be 25 five:

Provided that it shall be open to every judge to sit for the said purposes unless owing to illness, personal interest or other sufficient cause he is unable to do so.

(3) No opinion for the purpose of any report under 30 article 119 of this Constitution and no judgment shall be delivered by the Supreme Court save in open court.

(4) No such report shall be made and no judgment shall be delivered by the Supreme Court save with the concurrence of a majority of the judges present 35 at the hearing of the case, but nothing in this clause shall be deemed to prevent a judge who does not concur from delivering a dissenting opinion or judgment.

Salaries,
allowances
and pensions
of officers
and servants
and the ex-
penses of the
Supreme
Court.

122. (1) The salaries, allowances and pensions payable to or in respect of the officers and servants of the Supreme Court shall be fixed by the Chief Justice of India in consultation with the President.

(2) The administrative expenses of the Supreme Court, including all salaries, allowances and pensions payable to or in respect of the officers and servants of the court, shall be charged upon the revenues of India, and any fees or other moneys taken by the court shall form part of those revenues. 5 10

Construction
of references
to High
Courts in
States speci-
fied in Part
III of the
First Sche-
dule.

123. (1) References in articles 103 and 106 of this Chapter to a High Court in, or exercising jurisdiction in, a State for the time being specified in Part III of the First Schedule shall be construed as references to any court which the President may, upon being 15 satisfied after consultation with the Supreme Court and the Ruler of the State that such court is a court comparable to any of the High Courts in the States for the time being specified in Part I of that Schedule, declare to be a High Court for the 20 purposes of those articles.

(2) References in articles 110 and 113 of this Chapter to a High Court in a State for the time being specified in Part III of the First Schedule shall be construed as references to the court of final jurisdic- 25 tion in the State with regard to the proceeding in respect of which an appeal or reference is provided for in those articles.

CHAPTER V—Auditor-General of India

Auditor-Gen-
eral of India.

124. (1) There shall be an Auditor-General of 30 India, who shall be appointed by the President and shall only be removed from office in like manner and on the like grounds as a judge of the Supreme Court.

(2) The salary, allowances and other conditions of service of the Auditor-General shall be such as 35 may be determined by Parliament by law and until they are so determined shall be as specified in the Second Schedule:

Provided that neither the salary of an Auditor-General nor his rights in respect of leave of absence, pension or age of retirement shall be varied to his disadvantage after his appointment.

(3) The Auditor-General shall not be eligible for 5 further office either under the Government of India or under the Government of any State after he has ceased to hold his office.

(4) The salaries, allowances and pensions payable to or in respect of members of the staff of the Auditor-General shall be fixed by the Auditor-General in consultation with the President. 10

(5) The salaries, allowances and pensions payable to or in respect of the Auditor-General and members of his staff shall be charged upon the revenues of 15 India.

Duties and powers of the Auditor-General.

125. The Auditor-General shall perform such duties and exercise such powers in relation to the accounts of the Government of India and of the Government of any State as are or may be prescribed 20 by or under any law made by Parliament.

Explanation.—In this article the expression “law made by Parliament” includes any existing law for the time being in force in the territory of India.

Power of Auditor-General of India to give directions as to accounts.

126. The accounts of the Government of India 25 shall be kept in such form as the Auditor-General of India may, with the approval of the President, prescribe and, in so far as the Auditor-General of India may, with the like approval, give any directions with regard to the methods or principles in accordance 30 with which any accounts of the Government of any State ought to be kept, it shall be the duty of the Government of the State to cause accounts to be kept accordingly.

Audit reports.

127. The reports of the Auditor-General of India 35 relating to the accounts of the Government of India shall be submitted to the President, who shall cause them to be laid before Parliament.

PART VI

The States in Part I of the First

Schedule

CHAPTER I — GENERAL

Definition. 128. In this Part, unless the context otherwise requires, the expression "State" means a State for the time being specified in Part I of the First Schedule. 5

CHAPTER II — THE EXECUTIVE

The Governor

Governors of States. 129. There shall be a Governor for each State. 10

Executive power of States. 130. (1) The executive power of the State shall be vested in the Governor and may be exercised by him in accordance with the Constitution and the law.

- (2) Nothing in this article shall— 15
- (a) be deemed to transfer to the Governor any functions conferred by any existing law on any other authority; or
- (b) prevent Parliament or the Legislature of the State from conferring by law functions on any authority subordinate to the Governor. 20

Election of Governor. 131. The Governor of a State shall be elected by direct vote of all persons who have the right to vote at a general election for the Legislative Assembly of the State. 25

Alternatively

Appointment of Governor. *131. The Governor of a State shall be appointed by the President by warrant under his hand and seal from a panel of four candidates to be elected by the members of the Legislative Assembly of the State, 30

*Some of the members of the Committee are strongly in favour of this alternative, because they consider that the co-existence of a Governor elected by the people and a Prime Minister responsible to the Legislature might lead to friction and consequent weakness in administration.

or, where there is a Legislative Council in the State, by all the members of the Legislative Assembly and of the Legislative Council of the State assembled at a joint meeting, in accordance with the system of proportional representation by means of the single transferable vote and the voting at such election shall be by secret ballot. 5

Term of
office of
Governor.

132. The Governor shall hold office for a term of *five years from the date on which he enters upon his office: 10

Provided that—

- (a) a Governor may, by resignation under his hand addressed to the Speaker of the Legislative Assembly of the State or where there are two Houses of the Legislature of the State, to the Speaker of the Legislative Assembly and the Chairman of the Legislative Council of the State, resign his office; 15
- (b) a Governor may, for **violation of the Constitution, be removed from office by impeachment in the manner provided in article 137 of this Constitution; 20
- (c) a Governor shall, notwithstanding the expiration of his term, continue to hold office until his successor enters upon his office. 25

Eligibility
for re-election/
re-appointment as
Governor.

***133. A person who holds, or who has held, office as Governor shall be eligible for re-election/re-appointment to that office once, but only once. 30

Qualifications
for election
as Governor.

134. (1) No person shall be eligible for election as Governor unless he is a citizen of India and has completed the age of thirty five years.

*The Committee is of opinion that the term of office of the Governor should be five years instead of four years in view of the change suggested by the Committee in the life of the Assembly from four years to five years.

**The Committee is of opinion that the Governor should be impeached only for violation of the Constitution as in the case of the President and not for any misbehaviour.

***If the second alternative is adopted in article 131, the word "re-appointment" will have to be used in this article instead of the word "re-election".

(2) A person shall not be eligible for election as a Governor of a State—

- (a) if he is disqualified for being chosen as a member of the Legislative Assembly of the State:

5

Provided that it shall not be necessary for any such person to be a resident of the State; or

- (b) if he holds any office or position of emolument under the Government of India or the Government of any State for the time being specified in the First Schedule, or under any local or other authority subject to the control of any of the said Governments.

Explanation.—For the purposes of this clause a person shall not be deemed to hold any office or position of emolument by reason only that—

15

- (a) he is a minister either for India or for any State for the time being specified in Part I of the First Schedule; or
- (b) he is a minister for any State for the time being specified in Part III of the First Schedule, if he is responsible to the Legislature of the State, or, where there are two Houses of the Legislature of the State, to the Lower House of such Legislature, and if not less than three-fourths of the members of such Legislature or House, as the case may be, are elected.

20

25

Alternatively

30

Qualifications
for appointment as
Governor.

*134. (1) No person shall be eligible for appointment as Governor unless he is a citizen of India and has completed the age of thirty-five years.

(2) A person shall not be eligible for appointment as Governor of a State if he is disqualified for being chosen as a member of the Legislative Assembly of the State:

35

Provided that it shall not be necessary for any such person to be a resident of the State.

Conditions of
Governor's
office.

135. (1) The Governor shall not be a member either of Parliament or of the Legislature of any State for the time being specified in the First

40

*If the second alternative is adopted in article 131, this alternative will have to be adopted in the present article.

Schedule, and if a member of Parliament or of the Legislature of any such State be elected/*appointed Governor, he shall be deemed to have vacated his seat in Parliament or such Legislature, as the case may be, on the date on which he enters upon his office 5 as Governor.

(2) The Governor shall not hold any other office or position of emolument.

(3) The Governor shall have an official residence, and there shall be paid to the Governor such emolu- 10 ments and allowances as may be determined by the Legislature of the State by law and, until provision in that behalf is so made, such emoluments and allowances as are specified in the Second Schedule.

(4) The emoluments and allowances of the Gover- 15 nor shall not be diminished during his term of office.

Affirmation
or oath by
the Governor
or person
discharging
the functions
of the
Governor
before
entering
office.

136. Every Governor and every person discharg- ing the functions of the Governor shall before enter- ing upon his office make and subscribe in the presence of the members of the Legislature of the State an 20 affirmation or oath in the following form, that is to say:—

“I, A. B., do solemnly affirm (or swear) that I will faithfully execute the office of Governor (or discharge the functions of 25 the Governor) of——(name of the State) and will to the best of my ability preserve, protect and defend the Constitution and the law and that I will devote myself to the service and well-being of the people 30 of——(name of the State).”

Procedure for
impeachment
of the Gover-
nor.

137. (1) When a Governor is to be impeached for violation of the Constitution, the charge shall be preferred by the Legislative Assembly of the State.

(2) No such charge shall be preferred unless— 35

(a) the proposal to prefer such charge is contained in a resolution which has been moved after a notice in writing signed by not less than thirty members of the Assembly has been given of their intention 40 to move the resolution, and

*If the second alternative is adopted in article 131, the word “appointed” will have to be used in clause (1) of this article instead of the word “elected”.

(b) the resolution has been supported by not less than two-thirds of the total membership of the Assembly.

(3) When a charge has been so preferred, the Speaker of the Assembly shall inform the Chairman 5 of the Council of States and thereupon the Council of States shall appoint a committee which may consist of or include persons who are not members of the Council, to investigate the charge and the Governor shall have the right to appear and to be represented 10 at such investigation.

(4) If as a result of the investigation a resolution is passed, supported by not less than two-thirds of the total membership of the Council of States declaring that the charge preferred against the Governor has 15 been sustained, such resolution shall have the effect of removing the Governor from his office as from the date on which the resolution is communicated to the Speaker of the Assembly.

Power of the Legislature of the State/the President to provide for the discharge of the functions of the Governor in certain contingencies.

***138. The Legislature of a State may make such 20 provision as it thinks fit/The President may make such provision as he thinks fit for the discharge of the functions of the Governor of the/a State in any contingency not provided for in this Chapter.**

*If the second alternative is adopted in article 131, the words "The President may make such provision as he thinks fit" will have to be used in this article instead of the words "The Legislature of a State may make such provision as it thinks fit" and the words "a State" will have to be used for the words "the State" in this article.

The Committee is of opinion that whether the Governor is elected by the people or appointed by the President from a panel elected by the Legislature, it is unnecessary to have a Deputy Governor. Unlike the Vice-President at the Centre, the Deputy Governor cannot be made *ex-officio* Chairman of the Upper House, because in most of the States there will be no Upper House. The result is that the Deputy Governor will have no definite function to perform so long as the Governor is there. The only ground for creating the office of a Deputy Governor appears to be that there must be some person to step into the position of the Governor upon the occurrence of a sudden vacancy. The making of such a provision can be left to the Legislature of the State or to the President, as the case may be, e.g., the Legislature or the President may provide in advance that, in the event of a sudden vacancy occurring in the office of the Governor, the Chief Justice shall discharge the functions of the Governor (*cf.* paragraph 6 of the Letters Patent constituting the office of Governor-General of the Union of South Africa, where it is provided that the Chief Justice of South Africa may, in certain contingencies, exercise the powers of the Governor-General.)

Time of
holding
elections/
time of
holding elec-
tions to cons-
titute a panel
for the filling
of vacancies
in the office
of the
Governor.

*139. (1) An election / An election to constitute a panel for the purpose of filling a vacancy caused by the expiration of the term of office of a Governor shall be completed before the expiration of the term.

5

(2) An election / An election to constitute a panel for the purpose of filling a vacancy in the office of Governor occurring by reason of his death, resignation or removal or otherwise shall be held as soon as possible after the occurrence of the vacancy 10
and the person elected/appointed to fill the vacancy shall be entitled to hold office for the full term of five years as provided in article 132 of this Constitution.

Matters re-
lating to or
connected
with the
election of a
Governor/
the election
to constitute
a panel for
the appoint-
ment of a
Governor.

**140. (1) All doubts and disputes arising out of 15
or in connection with the election of a Governor / the election to constitute a panel for the purpose of the appointment of a Governor shall be inquired into and decided by the Supreme Court whose decision shall be final.

20

(2) Subject to the provisions of this Constitution, the Legislature of the State may, by law, regulate any matter relating to or connected with the election of a Governor / the election to constitute a panel for the purpose of the appointment of a Governor.

25

Power of
Governor
to grant
pardons,
etc., and to
suspend,
remit or
commute
sentences in
certain cases.

141. The Governor of a State shall have the power to grant pardons, reprieves, respites or remis-
sions of punishment, or to suspend, remit or com-
mute the sentence, of any person convicted of any
offence against any law relating to a matter with 30
respect to which the Legislature of the State has
power to make laws.

*If the second alternative is adopted in article 131, then the words "An election to constitute a panel" will have to be used in clauses (1) and (2) of this article instead of the words "An election" and the word "appointed" will have to be used in clause (2) of this article instead of the word "elected".

**If the second alternative is adopted in article 131, then the words "the election to constitute a panel for the purpose of the appointment of a Governor" will have to be used in clauses (1) and (2) of this article instead of the words "the election of a Governor".

Extent of
executive
power of
States.

142. Subject to the provisions of this Constitution, the executive power of each State shall extend—

- (a) to the matters with respect to which the Legislature of the State has power to make laws, and 5
- (b) to the exercise of such rights, authority and jurisdiction as are exercisable under any agreement entered into with any State or group of States for the time being specified in Part III of the First Schedule under article 236 or article 237 of this Constitution.

Council of Ministers

Council of
ministers to
aid and ad-
vise Govern-
or.

143. (1) There shall be a Council of ministers 15
with the Chief Minister at the head to aid and
advise the Governor in the exercise of his functions,
except in so far as he is by or under this Constitution
required to exercise his functions or any of them in
his discretion. 20

(2) If any question arises whether any matter is
or is not a matter as respects which the Governor is
by or under this Constitution required to act in his
discretion, the decision of the Governor in his discre-
tion shall be final, and the validity of anything done 25
by the Governor shall not be called in question on
the ground that he ought or ought not to have acted
in his discretion.

(3) The question whether any, and if so what,
advice was tendered by ministers to the Governor 30
shall not be inquired into in any court.

Other pro-
visions as to
ministers.

144. (1) The Governor's ministers shall be ap-
pointed by him and shall hold office during his
pleasure:

Provided that in the States of Bihar, Central 35
Provinces and Berar and Orissa, there shall be a
minister in charge of tribal welfare who may in ad-
dition be in charge of the welfare of the Scheduled
Castes and backward classes or any other work.

(2) Before a minister enters upon his office, the Governor shall administer to him the oaths of office and of secrecy according to the forms set out for the purpose in the Third Schedule.

(3) A minister who, for any period of six consecutive months, is not a member of the Legislature of the State shall at the expiration of that period cease to be a minister. 5

(4) In choosing his ministers and in his relations with them the Governor shall be generally guided by the Instructions set out in the Fourth Schedule, but the validity of anything done by the Governor shall not be called in question on the ground that it was done otherwise than in accordance with such Instructions. 10 15

(5) The salaries and allowances of ministers shall be such as the Legislature of the State may from time to time by law determine and, until the Legislature of the State so determine, shall be as specified in the Second Schedule. 20

(6) The functions of the Governor under this article with respect to the appointment and dismissal of ministers shall be exercised by him in his discretion.

The Advocate-General for the State 25

Advocate-General for the State.

145. (1) The Governor of each State shall appoint a person who is qualified to be appointed a judge of a High Court, to be Advocate-General for the State.

(2) It shall be the duty of the Advocate-General to give advice to the Government of the State upon such legal matters and to perform such other duties of a legal character as may from time to time be referred or assigned to him by the Governor, and to discharge the functions conferred on him by or under this Constitution or any other law for the time being in force. 30 35

(3) The Advocate-General shall retire from office upon the resignation of the Chief Minister in the State, but he may continue in office until his successor is appointed or he is reappointed. 40

(4) The Advocate-General shall receive such remuneration as the Governor may determine.

Conduct of Government Business

Conduct of
business of
the Govern-
ment of a
State.

146. (1) All executive action of the Government of a State shall be expressed to be taken in the name of the Governor. 5

(2) Orders and other instruments made and executed in the name of the Governor shall be authenticated in such manner as may be specified in rules to be made by the Governor, and the validity of an order or instrument which is so authenticated shall not be called in question on the ground that it is not an order or instrument made or executed by the Governor. 10

Duties of
Chief
Minister as
respects the
furnishing
of informa-
tion to
Governor,
etc.

147. It shall be the duty of the Chief Minister of each State— 15

(a) to communicate to the Governor of the State all decisions of the Council of ministers relating to the administration of the affairs of the State and proposals for legislation; 20

(b) to furnish such information relating to the administration of the affairs of the State and proposals for legislation as the Governor may call for; and

(c) if the Governor so requires, to submit for the consideration of the Council of ministers any matter on which a decision has been taken by a minister but which has not been considered by the Council. 25

CHAPTER III—The State Legislature

General

Constitution
of Legisla-
tures in
States in
Part I of the
First Sche-
dule.

148. (1) For every State there shall be a Legislature which shall consist of the Governor; and 30

(a) in the States of—
two Houses,

(b) in other States, one House. 35

(2) Where there are two Houses of the Legislature of a State, one shall be known as the Legislative Council and the other as the Legislative Assembly and where there is only one House, it shall be known as the Legislative Assembly. 40

*The names of these States will be filled in when it has been ascertained which of the States are to have two Houses.

Composition
of the Legis-
lative
Assemblies.

149. (1) Subject to the provisions of articles 294 and 295 of this Constitution the Legislative Assembly of each State shall be composed of members chosen by direct election.

(2) The election shall be on the basis of adult 5
suffrage; that is to say, every citizen who is not less than twenty-one years of age and is not otherwise disqualified under this Constitution or any law made by the Legislature of the State on the ground of non-residence, unsoundness of mind, crime or corrupt 10
or illegal practice shall be entitled to be registered as a voter at such elections.

(3) The representation of each territorial constituency in the Legislative Assembly of a State shall be on the basis of the population of that constituency 15
as ascertained at the last preceding census and shall, save in the case of the autonomous districts of Assam, be on a scale of not more than one representative for every lakh of the population:

Provided that the total number of members in 20
the Legislative Assembly of a State shall in no case be more than three hundred or less than sixty.

(4) Upon the completion of each census, the representation of the several territorial constituencies in the Legislative Assembly of each State shall, sub- 25
ject to the provisions of article 289 of this Constitution, be readjusted by such authority, in such manner and with effect from such date as the Legislature of the State may by law determine:

Provided that such readjustment shall not affect 30
representation to the Legislative Assembly until the dissolution of the then existing Assembly.

Composition
of the Legis-
lative Coun-
cils.

150. (1) The total number of members in the Legislative Council of a State having such a Council shall not exceed twenty-five per cent of the 35
total number of members in the Legislative Assembly of that State.

(2) Of the total number of members in the Legislative Council of a State—

(a) one-half shall be chosen from panels of 40
candidates constituted under clause (3) of
this article:

(b) one-third shall be elected by the members of the Legislative Assembly of the State in accordance with the system of proportional representation by means of the single transferable vote; and

5

(c) the remainder shall be nominated by the Governor.

(3) Before the first general election and, thereafter, before each triennial election under clause (2) of article 151 of this Constitution to the Legislative Council of a State, five panels of candidates shall be formed, of which one shall contain the names of representatives of universities in the State and the remaining four shall respectively contain the names of persons having special knowledge or practical experience in respect of the following subjects, namely:—

(a) literature, art and science;

(b) agriculture, fisheries and allied subjects;

(c) engineering and architecture;

20

(d) public administration and social services.

(4) Each panel of candidates constituted under clause (3) of this article shall contain at least twice the number to be elected from such panel.

(5) For bye-elections clauses (3) and (4) of this article shall have effect subject to such adaptations and modifications as may be prescribed by the Legislature of the State by law.

Duration of
State Legis-
latures.

151. (1) Every Legislative Assembly of every State, unless sooner dissolved, shall continue for 30 *five years from the date appointed for its first meeting and the expiration of the said period of *five years shall operate as a dissolution of the Assembly.

*The Committee has inserted "five years" instead of "four years" as the life of the Assembly, as it considers that under the Parliamentary system of Government the first year of a Minister's term of office would generally be taken up in gaining knowledge of the work of administration and the last year would be taken up in preparing for the next general election, and there would thus be only two years left for effective work which would be too short a period for planned administration.

(2) The Legislative Council of a State shall not be subject to dissolution. but as nearly as may be one-third of the members thereof shall retire as soon as may be on the expiration of every third year in accordance with the provisions made in that behalf 5 by the Legislature of the State by law.

Age-limit
for mem-
bership of
the State
Legislature.

152. A person shall not be qualified to be chosen to fill a seat in the Legislature of a State unless he is, in the case of a seat in a Legislative Assembly, not less than twenty-five years of age, and in the 10 case of a seat in a Legislative Council, not less than thirty-five years of age.

Sessions of
the State
Legislature,
prorogation
and dissolu-
tion.

153. (1) The House or Houses of the Legislature of the State shall be summoned to meet twice at least in every year, and six months shall not intervene 15 between their last sitting in one session and the date appointed for their first sitting in the next session.

(2) Subject to the provisions of this article, the Governor may from time to time— 20

(a) summon the Houses or either House to meet at such time and place as he thinks fit;

(b) prorogue the House or Houses:

(c) dissolve the Legislative Assembly.

(3) The functions of the Governor under sub- 25 clauses (a) and (c) of clause (2) of this article shall be exercised by him in his discretion.

Right of
Governor to
address and
send mes-
sages to the
Houses.

154. (1) The Governor may address the Legislative Assembly or in the case of a State having a Legis-
lative Council, either House of the Legislature of
the State, or both Houses assembled together, and 30
may for that purpose require the attendance of
members.

(2) The Governor may send messages to the House or Houses of the Legislature of the State whether with respect to a Bill then pending in the 35

Legislature or otherwise, and a House to which any message is so sent shall with all convenient despatch consider any matter required by the message to be taken into consideration.

Special address by the Governor at the commencement of each session and discussion in the Legislature of matters referred to in the address.

***155. (1)** At the commencement of every session, 5
the Governor shall address the Legislative Assembly or in the case of a State having a Legislative Council, both Houses assembled together and inform the Legislature of the cause of its summons.

(2) Provision shall be made by the rules regulating the procedure of either House for the allotment of time for a discussion of the matters referred to in such address and for the precedence of such discussion over other business of the House. 10

Rights of ministers and Advocate-General as respects the Houses.

156. Every minister and the Advocate-General 15
for a State shall have the right to speak in, and otherwise to take part in the proceedings of, the Legislative Assembly of the State or, in the case of a State having a Legislative Council, both Houses and any joint sitting of the Houses, and to speak in, 20
and otherwise to take part in the proceedings of, any committee of the Legislature of which he may be named a member, but shall not, by virtue of this article, be entitled to vote.

Officers of The State Legislature 25

The Speaker and Deputy Speaker of the Legislative Assembly.

157. Every Legislative Assembly of a State shall, as soon as may be, choose two members of the Assembly to be respectively Speaker and Deputy Speaker thereof, and, so often as the office of Speaker or Deputy Speaker becomes vacant, the 30
Assembly shall choose another member to be Speaker or Deputy Speaker, as the case may be.

*This clause which is based on the practice prevalent in the Parliament of the United Kingdom has been inserted by the Committee as it considers that it will prove useful in our Constitution also.

Vacation and
resignation of,
and removal
from the office
of, Speaker
and Deputy
Speaker.

158. A member holding office as Speaker or Deputy Speaker of an Assembly—

- (a) shall vacate his office if he ceases to be a member of the Assembly;
- (b) may at any time by writing under his hand addressed, if such member is the Speaker, to the Deputy Speaker, and if such member is the Deputy Speaker, to the Speaker, resign his office; and
- (c) may be removed from his office for incapacity or want of confidence by a resolution of the Assembly passed by a majority of all the then members of the Assembly:

Provided that no resolution for the purpose of clause (c) of this article shall be moved unless at least fourteen days' notice has been given of the intention to move the resolution:

Provided further that, whenever the Assembly is dissolved, the Speaker shall not vacate his office until immediately before the first meeting of the Assembly after the dissolution.

Power of the
Deputy
Speaker or
other persons
to perform
the duties of
the office of
or to act as,
Speaker.

159. (1) While the office of Speaker is vacant the duties of the office shall be performed by the Deputy Speaker, or if the office of Deputy Speaker is also vacant, by such member of the Assembly as the Governor may appoint for the purpose.

(2) During the absence of the Speaker from any sitting of the Assembly, the Deputy Speaker or, if he is also absent such person as may be determined by the rules of procedure of the Assembly, or, if no such person is present, such other person as may be determined by the Assembly, shall act as Speaker.

The Chair-
man and
Deputy
Chairman
of the Legis-
lative Council.

160. The Legislative Council of every State having such Council, shall, as soon as may be, choose two members of the Council to be respectively Chairman and Deputy Chairman thereof and, so often as the office of Chairman or Deputy Chairman becomes vacant, the Council shall choose another member to be Chairman or Deputy Chairman, as the case may be.

Vacation and resignation of, and removal from, the office of Chairman and Deputy Chairman.

161. A member holding office as Chairman or Deputy Chairman of a Legislative Council—

- (a) shall vacate his office if he ceases to be a member of the Council;
- (b) may at any time by writing under his hand addressed, if such member is the Chairman, to the Deputy Chairman, and if such member is the Deputy Chairman, to the Chairman, resign his office; and
- (c) may be removed from his office for incapacity or want of confidence by a resolution of the Council passed by a majority of all the then members of the Council:

Provided that no resolution for the purpose of clause (c) of this article shall be moved unless at least fourteen days' notice has been given of the intention to move the resolution.

Power of the Deputy Chairman or other persons to perform the duties of the office of, or to act as, Chairman.

162. (1) While the office of Chairman is vacant, the duties of the office shall be performed by the Deputy Chairman or if the office of Deputy Chairman is also vacant by such member of the Council as the Governor may appoint for the purpose.

(2) During the absence of the Chairman from any sitting of the Council, the Deputy Chairman or, if he is also absent such person as may be determined by the rules of procedure of the Council, or, if no such person is present, such other person as may be determined by the Council, shall act as Chairman.

Salaries and allowances of the Speaker and Deputy Speaker and the Chairman and Deputy Chairman.

163. There shall be paid to the Speaker and the Deputy Speaker of the Legislative Assembly and to the Chairman and the Deputy Chairman of the Legislative Council such salaries and allowances as may be respectively fixed by the Legislature of the State by law, and, until provision in that behalf is so made, such salaries and allowances as are specified in the Second Schedule.

Conduct of Business

Voting in Houses; power of Houses to act notwithstanding vacancies and quorum.

164. (1) Save as provided in this Constitution, all questions in a House or a joint sitting of two Houses of the Legislature of a State shall be determined by a majority of votes of the members present and voting, other than the Speaker or Chairman or person acting as such.

The Speaker or Chairman or person acting as such shall not vote in the first instance but shall have and exercise a casting vote in the case of an equality of votes.

(2) A House of the Legislature of a State shall have power to act notwithstanding any vacancy in the membership thereof, and any proceedings in the Legislature of a State shall be valid notwithstanding that it is discovered subsequently that some person who was not entitled so to do, sat or voted or otherwise took part in the proceedings. 5 10

(3) If at any time during a meeting of the Legislative Assembly or the Legislative Council of a State there is no quorum, it shall be the duty of the Speaker or Chairman or person acting as such either to adjourn the House or to suspend the meeting until there is a quorum. 15

The quorum shall be ten members or one-sixth of the total number of members of the House, whichever is greater.

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Disqualifications of Members

Declaration
by members.

165. Every member of the Legislative Assembly or the Legislative Council of a State shall, before taking his seat, make and subscribe before the Governor or some person appointed in this behalf by him, a declaration according to the form set out for the purpose in the Third Schedule. 25

Vacation of
seats.

166. (1) No person shall be a member of both Houses of the Legislature of a State and provision shall be made by the Legislature of the State by law for the vacation by a person who is chosen a member of both Houses of his seat in one House or the other. 30

(2) No person shall be a member both of Parliament and of the Legislature of a State and if a person is chosen a member both of Parliament and of the Legislature of a State, then, at the expiration of such period as may be specified in rules made by the Governor of the State, that person's seat in the Legislature of the State shall become vacant, unless he has previously resigned his seat in Parliament. 35 40

(3) If a member of a House of the Legislature of a State—

(a) becomes subject to any of the disqualifications mentioned in clause (1) of the next succeeding article; or

(b) resigns his seat by writing under his hand addressed to the Speaker or the Chairman, as the case may be,

his seat shall thereupon become vacant.

(4) If for a period of sixty days a member of a House of the Legislature of a State is without permission of the House absent from all meetings thereof, the House may declare his seat vacant:

Provided that in computing the said period of sixty days no account shall be taken of any period during which the House is prorogued or is adjourned for more than four consecutive days.

Disqualifi-
cations for
membership.

167. (1) A person shall be disqualified for being chosen as, and for being, a member of the Legislative Assembly or Legislative Council of a State—

(a) if he holds any office of profit under the Government of India or the Government of any State for the time being specified in the First Schedule other than an office declared by the Legislature of the State by law not to disqualify its holder;

(b) if he is of unsound mind and stands so declared by a competent court;

(c) if he is an undischarged insolvent;

*(d) if he is under any acknowledgment of allegiance or adherence to a foreign power, or is a subject or a citizen or entitled to the rights or privileges of a subject or a citizen of a foreign power;

(e) if he is so disqualified by or under any law made by the Legislature of the State.

(2) For the purposes of this article, a person shall not be deemed to hold an office of profit under the Government of India or the Government of any State for the time being specified in the First Schedule by reason only that—

(a) he is a minister either for India or for any State for the time being specified in Part I of the First Schedule; or

*The Committee has inserted this sub-clause following the provisions of section 44 (i) of the Australia Constitution Act.

(b) he is a minister for any State for the time being specified in Part III of the First Schedule, if he is responsible to the Legislature of the State, or where there are two Houses of the Legislature of the State, to the Lower House of such Legislature and if not less than three-fourths of the members of such Legislature or House, as the case may be, are elected. 5

Penalty for sitting and voting before making declaration under article 165 or when not qualified or when disqualified.

168. If a person sits or votes as a member of the Legislative Assembly or the Legislative Council of a State before he has complied with the requirements of article 165 of this Constitution, or when he knows that he is not qualified or that he is disqualified for membership thereof or that he is prohibited from so doing by the provisions of any law made by the Legislature of the State, he shall be liable in respect of each day on which he so sits or votes to a penalty of five hundred rupees to be recovered as a debt due to the State. 10 15 20

Privileges and Immunities of Members

Privileges, etc. of members.

169. (1) Subject to the rules and standing orders regulating the procedure of the Legislature, there shall be freedom of speech in the Legislature of every State. 25

(2) No member of the Legislature of a State shall be liable to any proceedings in any court in respect of anything said or any vote given by him in the Legislature or any committee thereof, and no person shall be so liable in respect of the publication by or under the authority of a House of such a Legislature of any report, paper, votes or proceedings. 30

(3) In other respects the privileges and immunities of members of a House of the Legislature of a State shall be such as may from time to time be defined by the Legislature by law, and until so defined, shall be such as are enjoyed by the members of the House of Commons of the Parliament of the United Kingdom at the commencement of this Constitution. 35 40

(4) The provisions of clauses (1), (2) and (3) of this article shall apply in relation to persons who by virtue of this Constitution have the right to speak in, and otherwise take part in the proceedings of, a House of the Legislature of a State as they apply in relation to members of that Legislature. 45

Salaries and
allowances
of members.

170. Members of the Legislative Assembly and the Legislative Council of a State shall be entitled to receive such salaries and allowances as may from time to time be determined by the Legislature of the State by law, and, until provision in that respect is so made, allowances at such rates and upon such conditions as were immediately before the date of commencement of this Constitution applicable in the case of members of the Provincial Legislative Assembly for that State.

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Legislative Procedure

Provisions as
to introduc-
tion and
passing of
Bills.

171. (1) Subject to the provisions of articles 173 and 182 of this Constitution with respect to Money Bills and other financial Bills, a Bill may originate in either House of the Legislature of a State which has a Legislative Council.

(2) Subject to the provisions of articles 172 and 173 of this Constitution, a Bill shall not be deemed to have been passed by the Houses of the Legislature of a State having a Legislative Council unless it has been agreed to by both Houses either without amendment or with such amendments only as are agreed to by both Houses.

(3) A Bill pending in the Legislature of a State shall not lapse by reason of the prorogation of the House or Houses thereof.

(4) A Bill pending in the Legislative Council of a State which has not been passed by the Legislative Assembly shall not lapse on a dissolution of the Assembly.

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(5) A Bill which is pending in the Legislative Assembly of a State, or which having been passed by the Legislative Assembly is pending in the Legislative Council, shall lapse on a dissolution of the Assembly.

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Joint sitting
of both
Houses in
States hav-
ing Legisla-
tive Councils
in certain
cases. . .

172. (1) If after a Bill has been passed by the Legislative Assembly of a State having a Legislative Council and transmitted to the Legislative Council, more than six months elapse from the date of the reception of the Bill by the Council without the Bill being passed by both Houses, the Governor may, unless the Bill has lapsed by reason of a dissolution of the Legislative Assembly, summon the Houses to

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meet in a joint sitting for the purposes of deliberating and voting on the Bill:

Provided that nothing in this clause shall apply to a Money Bill.

(2) In reckoning any such period of six months as is referred to in clause (1) of this article, no account shall be taken of any time during which both Houses are prorogued or adjourned for more than four days.

(3) If at the joint sitting of the two Houses summoned in accordance with the provisions of this article the Bill, with such amendments, if any, as are agreed to in joint sitting, is passed by a majority of the total number of members of both Houses present and voting, it shall be deemed for the purposes of this Constitution to have been passed by both Houses:

Provided that at a joint sitting—

(a) if the Bill has not been passed by the Legislative Council with amendments and returned to the Legislative Assembly, no amendment shall be proposed to the Bill other than such amendments (if any) as are made necessary by the delay in the passage of the Bill;

(b) if the Bill has been so passed and returned by the Legislative Council, only such amendments as aforesaid shall be proposed to the Bill and such other amendments as are relevant to the matters with respect to which the Houses have not agreed;

and the decision of the person presiding as to the amendments which are admissible under this clause shall be final.

Special procedure in respect of Money Bills.

*173. (1) A Money Bill shall not be introduced in a Legislative Council.

(2) After a Money Bill has been passed by the Legislative Assembly of a State having a Legislative Council, it shall be transmitted to the Legislative Council for its recommendations, and the Legislative

*This article and all other provisions in this Chapter relating to "Money Bills" have been inserted to give effect to the recommendations of the Expert Committee on the Financial Provisions of the Constitution.

Council shall within a period of thirty days from the date of its receipt of the Bill return the Bill to the Legislative Assembly with its recommendations, and the Legislative Assembly may thereupon either accept or reject all or any of the recommendations of the Legislative Council. 5

(3) If the Legislative Assembly accepts any of the recommendations of the Legislative Council, the Money Bill shall be deemed to have been passed by both Houses with the amendments recommended by the Legislative Council and accepted by the Legislative Assembly. 10

(4) If the Legislative Assembly does not accept any of the recommendations of the Legislative Council, the Money Bill shall be deemed to have been passed by the Legislative Assembly without any of the amendments recommended by the Legislative Council. 15

(5) If a Money Bill passed by the Legislative Assembly and transmitted to the Legislative Council for its recommendations is not returned to the Legislative Assembly within the said period of thirty days, it shall be deemed to have been passed by both Houses at the expiration of the said period in the form in which it was passed by the Legislative Assembly. 20 25

Definition of
"Money
Bills."

174. (1) For the purposes of this Chapter, a Bill shall be deemed to be a Money Bill if it contains only provisions dealing with all or any of the following matters, namely:—

- (a) the imposition, abolition, remission, alteration or regulation of any tax; 30
- (b) the regulation of the borrowing of money or the giving of any guarantee by the State, or the amendment of the law with respect to any financial obligations undertaken or to be undertaken by the State; 35
- (c) supply;
- (d) the appropriation of the revenues of the State;
- (e) the declaring of any expenditure to be expenditure charged on the revenues of the State, or the increasing of the amount of any such expenditure; 40

(f) the receipt of money on account of the revenues of the State or the custody or issue of such money or the audit of the accounts of the State; or

(g) any matter incidental to any of the matters specified in items (a) to (f) of this clause. 5

(2) A Bill shall not be deemed to be a Money Bill by reason only that it provides for the imposition of fines or other pecuniary penalties, or for the demand or payment of fees for licences or fees for services rendered or by reason that it provides for the imposition, abolition, remission, alteration or regulation of any tax by any local authority or body for local purposes. 10

(3) If any question arises whether a Bill introduced in the Legislature of a State which has a Legislative Council is a Money Bill or not, the decision of the Speaker of the Legislative Assembly of such State thereon shall be final. 15

(4) There shall be endorsed on every Money Bill when it is transmitted to the Legislative Council under the last preceding article, and when it is presented to the Governor for assent under the next succeeding article, the certificate of the Speaker of the Legislative Assembly signed by him that it is a Money Bill. 20 25

Assent to
Bills.

175. A Bill which has been passed by the Legislative Assembly of a State or, in the case of a State having a Legislative Council, has been passed by both Houses of the Legislature of the State, shall be presented to the Governor and the Governor shall declare either that he assents to the Bill or that he withholds assent therefrom or that he reserves the Bill for the consideration of the President: 30

Provided that where there is only one House of the Legislature and the Bill has been passed by that House, the Governor may, in his discretion, return the Bill together with a message requesting that the House will reconsider the Bill or any specified provisions thereof and, in particular, will reconsider the desirability of introducing any such amendments as he may recommend in his message and, when a Bill is so returned, the House shall reconsider it accordingly and if the Bill is passed 35 40

again by the House with or without amendment and presented to the Governor for assent, the Governor shall not withhold assent therefrom.

Bills reserved
for considera-
tion.

176. When a Bill is reserved by a Governor for the consideration of the President, the President shall declare either that he assents to the Bill or that he withholds assent therefrom: 5

Provided that where the Bill is not a Money Bill the President may direct the Governor to return the Bill to the House or, as the case may be, the Houses 10 of the Legislature of the State together with such a message as is mentioned in the proviso to the last preceding article and, when a Bill is so returned, the House or Houses shall reconsider it accordingly within a period of six months from the date of receipt 15 of such message and, if it is again passed by them with or without amendment, it shall be presented again to the President for his consideration.

Procedure in Financial Matters

Annual
financial
statement.

177. (1) The Governor shall in respect of every 20 financial year cause to be laid before the House or Houses of the Legislature of the State a statement of the estimated receipts and expenditure of the State for that year, in this Part of this Constitution referred to as the "annual financial statement". 25

(2) The estimates of expenditure embodied in the annual financial statement shall show separately—

- (a) the sums required to meet expenditure described by this Constitution as expenditure charged upon the revenues of the 30 State; and
- (b) the sums required to meet other expenditure proposed to be made from the revenues of the State;

and shall distinguish expenditure on revenue account 35 from other expenditure.

(3) The following expenditure shall be expenditure charged on the revenues of each State—

- (a) the emoluments and allowances of the Governor and other expenditure relating 40 to his office;

- (b) the emoluments and allowances of the Speaker and the Deputy Speaker of the Legislative Assembly, and in the case of a State having a Legislative Council, also of the Chairman and the Deputy Chair- 5 man of the Legislative Council;
- (c) debt charges for which the State is liable including interest, sinking fund charges and redemption charges, and other expenditure relating to the raising of 10 loans and the service and redemption of debt;
- (d) expenditure in respect of the salaries and allowances of judges of any High Court;
- (e) any sums required to satisfy any judgment, 15 decree or award of any court or arbitral tribunal;
- (f) any other expenditure declared by this Constitution or by the Legislature of the State by law to be so charged. 20

Procedure
in Legislature
with respect
to estimates.

178. (1) So much of the estimates as relates to expenditure charged upon the revenues of a State shall not be submitted to the vote of the Legislative Assembly, but nothing in this clause shall be construed as preventing the discussion in the Legis- 25 lature of those estimates.

(2) So much of the said estimates as relates to other expenditure shall be submitted in the form of demands for grants to the Legislative Assembly, and the Legislative Assembly shall have power to assent, 30 or to refuse to assent, to any demand, or to assent to any demand subject to a reduction of the amount specified therein.

(3) No demand for a grant shall be made except on the recommendation of the Governor. 35

Authentica-
tion of sche-
dule of
authorised
expenditure.

179. (1) The Governor shall authenticate by his signature a schedule specifying—

- (a) the grants made by the Assembly under the last preceding article;
- (b) the several sums required to meet the 40 expenditure charged on the revenues of the State, but not exceeding in any case, the sum shown in the statement pre-viously laid before the House or Houses.

(2) The schedule so authenticated shall be laid before the Assembly but shall not be open to discussion or vote in the Legislature.

(3) Subject to the provisions of the next two succeeding articles, no expenditure from the revenues of the State shall be deemed to be duly authorised unless it is specified in the schedule so authenticated. 5

Supplementary statements of expenditure.

180. If in respect of any financial year further expenditure from the revenues of the State becomes necessary over and above the expenditure theretofore authorised for that year, the Governor shall cause to be laid before the House or Houses a supplementary statement showing the estimated amount of that expenditure, and the provisions of the preceding articles shall have effect in relation to that statement and that expenditure as they have effect in relation to the annual financial statement and the expenditure mentioned therein. 15

Excess grants.

*181. If in any financial year expenditure from the revenues of the State has been incurred on any service for which the vote of the Legislative Assembly is necessary in excess of the amount granted for that service and for that year, a demand for the excess shall be presented to the Assembly and the provisions of articles 178 and 179 of this Constitution shall have effect in relation to such demand as they have effect in relation to a demand for a grant. 20 25

Special provisions as to financial Bills.

182. (1) A Bill or amendment making provision for any of the matters specified in items (a) to (f) of clause (1) of article 174 of this Constitution shall not be introduced or moved except on the recommendation of the Governor, and a Bill making such provision shall not be introduced in a Legislative Council: 30

Provided that no recommendation shall be required under this clause for the moving of an amendment making provision for the reduction or abolition of any tax. 35

*This article has been inserted to follow the recommendation of the Expert Committee on the Financial Provisions of the Constitution.

(2) A Bill or amendment shall not be deemed to make provision for any of the matters aforesaid by reason only that it provides for the imposition of fines or other pecuniary penalties, or for the demand or payment of fees for licences or fees for services rendered, or by reason that it provides for the imposition, abolition, remission, alteration or regulation of any tax by any local authority or body for local purposes. 5

(3) A Bill which, if enacted and brought into operation, would involve expenditure from the revenues of a State shall not be passed by a House of the Legislature of the State unless the Governor has recommended to that House the consideration of the Bill. 15

Procedure Generally

Rules of
Procedure.

183. (1) A House of the Legislature of a State may make rules for regulating, subject to the provisions of this Constitution, its procedure and the conduct of its business. 20

(2) Until rules are made under clause (1) of this article, the rules of procedure and standing orders in force immediately before the commencement of this Constitution with respect to the Provincial Legislature for the State shall have effect in relation to the Legislature of that State subject to such modifications and adaptations as may be made therein by the Speaker of the Legislative Assembly, or the Chairman of the Legislative Council, as the case may be. 25 30

(3) In a State having a Legislative Council the Governor, after consultation with the Speaker of the Legislative Assembly and the Chairman of the Legislative Council, may make rules as to the procedure with respect to joint sittings of, and communications between, the two Houses. 35

(4) At a joint sitting of the two Houses the Speaker of the Legislative Assembly*, or in his absence such person as may be determined by rules of procedure made under clause (3) of this article, shall preside. 40

*The Committee is of opinion that the Speaker of the Assembly should preside at a joint sitting of the two Houses as the Assembly is the more numerous body.

Language
to be used
in the
Legislatures
of States.

184. (1) In the Legislature of a State, business shall be transacted in the language or languages generally used in that State or in Hindi or in English.

(2) The Speaker of the Legislative Assembly or the Chairman of the Legislative Council may, whenever he thinks fit, make arrangements for making available in the Assembly or the Council, as the case may be, a summary in any language generally used in the State or in English of the speech delivered by a member in any other language, and such summary shall be included in the record of the proceedings of the House in which the speech has been delivered.

Restrictions
on discussion
in the Legis-
lature.

185. (1) No discussion shall take place in the Legislature of a State with respect to the conduct of any judge of the Supreme Court or of a High Court in the discharge of his duties.

(2) In this article, the reference to a High Court shall be construed as including a reference to any court in a State for the time being specified in Part III of the First Schedule which is a High Court for any of the purposes of Chapter IV of Part V of this Constitution.

Courts not to
inquire into
proceedings
of the Legis-
lature.

186. (1) The validity of any proceedings in the Legislature of a State shall not be called in question on the ground of any alleged irregularity of procedure.

(2) No officer or other member of the Legislature of a State in whom powers are vested by or under this Constitution for regulating procedure or the conduct of business, or for maintaining order, in the Legislature shall be subject to the jurisdiction of any court in respect of the exercise by him of those powers.

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CHAPTER IV—Legislative Power of the Governor

Power of
Governor to
promulgate
Ordinances
during recess
of Legisla-
ture.

187. (1) If at any time, except when the Legislative Assembly of a State is in session, or where there is a Legislative Council in a State, except when both Houses of the Legislature are in session, the

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Governor is satisfied that circumstances exist which render it necessary for him to take immediate action, he may promulgate such Ordinances as the circumstances appear to him to require:

Provided that the Governor shall not, without 5 instructions from the President, promulgate any such Ordinance if an Act of the Legislature of the State containing the same provisions would under the provisions of this Constitution have been invalid unless, having been reserved for the consideration 10 of the President, it had received the assent of the President.

(2) An Ordinance promulgated under this article shall have the same force and effect as an Act of the Legislature of the State assented to by the 15 Governor, but every such Ordinance—

(a) shall be laid before the Legislative Assembly of the State, or where there is a Legislative Council in the State, before both the Houses, and shall cease to operate at 20 the expiration of six weeks from the reassembly of the Legislature, or if before the expiration of that period a resolution dis-approving it is passed by the Legislative Assembly and agreed to by 25 the Legislative Council, if any, upon the passing of the resolution or, as the case may be, on the resolution being agreed to by the Council; and

(b) may be withdrawn at any time by the 30 Governor.

Explanation.—Where the Houses of the Legislature of a State having a Legislative Council are summoned to re-assemble on different dates, the period of six weeks shall be reckoned from the later 35 of those dates for the purposes of this clause.

(3) If and so far as an Ordinance under this article makes any provision which would not be valid if enacted in an Act of the Legislature of the State assented to by the Governor, it shall be void: 40

Provided that, for the purposes of the provisions of this Constitution relating to the effect of an Act of the Legislature of a State which is repugnant to

an Act of Parliament or an existing law with respect to a matter enumerated in the Concurrent List, an Ordinance promulgated under this article in pursuance of instructions from the President shall be deemed to be an Act of the Legislature of the State which has been reserved for the consideration of the President and assented to by him. 5

CHAPTER V—Provisions in Cases of Grave Emergencies

Power of Governor in grave emergencies.

188. (1) If at any time the Governor of a State is 10 satisfied that a grave emergency has arisen which threatens the peace and tranquillity of the State and that it is not possible to carry on the Government of the State in accordance with the provisions of this Constitution, he may, by proclamation, declare 15 that his functions shall, to such extent as may be specified in the proclamation, be exercised by him in his discretion, and any such proclamation may contain such incidental and consequential provisions as may appear to him necessary or desirable for 20 giving effect to the objects of the proclamation including provisions for suspending in whole or in part the operation of any provisions of this Constitution relating to any body or authority in the State: 25

Provided that nothing in this clause shall authorise the Governor to suspend, either in whole or in part, the operation of any provision of this Constitution relating to High Courts.

(2) The proclamation shall be forthwith commu- 30 nicated by the Governor to the President who may, thereupon either revoke the proclamation or take such action as he considers appropriate in exercise of the emergency powers vested in him under article 278 of this Constitution. 35

(3) A proclamation under this article shall cease to operate at the expiration of two weeks unless revoked earlier by the Governor or by the President by public notification.

(4) The functions of the Governor under this 40 article shall be exercised by him in his discretion.

Provided that—

- (a) a judge may, by writing under his hand addressed to the Governor, resign his office;
- (b) a judge may be removed from his office by 5, the President in the manner provided in clause (4) of article 103 of this Constitution for the removal of a judge of the Supreme Court;
- (c) the office of the judge shall be vacated by his 10 being appointed by the President to be a judge of the Supreme Court or of any other High Court.

(2) A person shall not be qualified for appointment as a judge of a High Court unless he is a 15 citizen of India and—

- (a) has held for at least ten years a judicial office in any State in or for which there is a High Court; or
- (b) has been for at least ten years an advocate 20 of a High Court or of two or more such courts in succession.

Explanation I.—For the purposes of this clause—

- (a) in computing the period during which a person has been an advocate of a High 25 Court, there shall be included any period during which a person held judicial office after he became an advocate;
- (b) in computing the period during which a person has held judicial office in a State 30 for the time being specified in Part I or Part II of the First Schedule or been an advocate of a High Court, there shall be included any period before the commencement of this Constitution during which 35 he held judicial office in any area which was comprised before the fifteenth day of August, 1947, within British India as defined by the Government of India Act, 1935, or has been an advocate of any 40 High Court in any such area, as the case may be.

Explanation II.—In sub-clauses (a) and (b) of this clause, the reference to a High Court shall be construed as including a reference to a court in a State for the time being specified in Part III of the First Schedule which is a High Court for the purposes of articles 103 and 106 of this Constitution. 5

Application of certain provisions relating to Supreme Court to High Courts.

194. The provisions of clauses (4) and (5) of article 103 of this Constitution shall apply in relation to a High Court as they apply in relation to the Supreme Court with the substitution of references to the High Court for references to the Supreme Court. 10

Declaration by judges of High Courts before entering office.

195. Every person appointed to be a judge of a High Court in a State shall, before he enters upon his office, make and subscribe before the Governor of the State or some person appointed in that behalf by him a declaration according to the form set out for the purpose in the Third Schedule. 15

Prohibition of practising in courts or before any authority by a person who held office as a judge of a High Court.

*196. No person who has held office—

- (a) as a judge of a High Court, or 20
- (b) as an additional judge or temporary judge of a High Court on having been recruited from the Bar,

shall plead or act in any Court or before any authority within the territory of India. 25

Salaries, etc. of judges.

197. The judges of each High Court shall be entitled to such salaries and allowances, and to such rights in respect of leave and pensions, as may from time to time be fixed by or under law made by the Legislature of the State in which the Court has its principal seat, and until they are so fixed, shall be entitled to such salaries, allowances and rights in respect of leave of absence or pension as are specified in the Second Schedule: 30

Provided that the salary of the Chief Justice of a High Court shall not be less than four thousand 35

*The Committee is of opinion that a person who has held office as judge of a High Court should be prohibited from practising in any court or before any authority and so also persons who have held office as additional judges or temporary judges of the court on having been recruited from the Bar.

(2) The power conferred on a High Court by clause (1) of this article shall not be in derogation of the power conferred on the Supreme Court by clause (2) of article 25 of this Constitution.

Administra-
tive functions
of High
Courts.

203. (1) Every High Court shall have super- 5
intendence over all courts throughout the territories
in relation to which it exercises jurisdiction.

(2) The High Court may—

(a) call for returns from such courts;

(b) direct the transfer of any suit or appeal from 10
any such court to any other court of
equal or superior jurisdiction, or with-
draw such suit or appeal from any such
court to itself;

(c) make and issue general rules and prescribe 15
forms for regulating the practice and
proceedings of such courts; and

(d) prescribe forms in which books, entries and
accounts shall be kept by the officers of
any such courts.

20

(3) The High Court may also settle tables of fees
to be allowed to the sheriff and all clerks and officers
of such courts and to attorneys, advocates and
pleaders practising therein:

Provided that any rules made, forms prescribed 25
or tables settled under clause (2) or clause (3) of
this article shall not be inconsistent with the provi-
sions of any law for the time being in force, and
shall require the previous approval of the Governor.

Transfer of
certain cases
to High
Court for
trial.

204. If the High Court is satisfied that a case 30
pending in a court subordinate to it involves a
substantial question of law as to the interpretation
of this Constitution, it shall withdraw the case to
itself and dispose of the same.

Explanation.—In this article, “High Court” 35
includes a court of final jurisdiction in a State
for the time being specified in Part III of the First
Schedule with regard to the case so pending.

Salaries,
allowances
and pensions
of officers
and servants
and the
expenses of
High Courts.

205. (1) The salaries, allowances and pensions payable to or in respect of the officers and servants of a High Court shall be fixed by the Chief Justice of the court in consultation with the Governor of the State in which the High Court has its principal seat. 5

(2) The administrative expenses of a High Court, including all salaries, allowances and pensions payable to or in respect of officers and servants of the court, and the salaries and allowances of the judges of the court, shall be charged upon the revenues of the State, and any fees or other moneys taken by the court shall form part of those revenues. 10

Power to
constitute or
re-constitute
High Court.

206. (1) The Legislature of a State for the time being specified in Part I of the First Schedule may, by law, constitute a High Court for the State or any part thereof or reconstitute in like manner any existing High Court for that State or for any part thereof, or where there are two High Courts in that State, amalgamate those courts. 20

(2) Where any court is reconstituted, or two courts are amalgamated, as aforesaid, the law made by the Legislature of the State shall provide for—

(a) the continuance in their respective offices of all the existing judges of the court or courts and of such of the existing officers and servants of the court or courts as may be deemed necessary; and 25

(b) the carrying on before the reconstituted court or the new court of all pending matters, 30

and may contain such other provision as may appear to be necessary by reason of the reconstitution or amalgamation.

Extension of
or exclusion
from the
jurisdiction of
High Courts.

207. Parliament may by law— 35

(a) extend the jurisdiction of a High Court to, or
(b) exclude the jurisdiction of a High Court from,

any State other than, or any area not within, the State in which the High Court has its principal seat: 40

Provided that no Bill for any such purpose shall be introduced in either House of Parliament unless—

- (i) where the jurisdiction is to be extended to or excluded from a State for the time being specified in Part I or Division A of Part III of the First Schedule or any area within such State, the consent of such other State has been obtained; and
- (ii) where the jurisdiction is to be extended, the consent of the State in which the High Court has its principal seat has also been obtained.

Restrictions on the power of the Legislatures of States to make laws with respect to jurisdiction of a High Court in a State having jurisdiction outside that State.

208. Where a High Court exercises jurisdiction in relation to any area outside the State in which it has its principal seat, nothing in this Constitution shall be construed—

- (a) as empowering the Legislature of the State in which the court has its principal seat to increase, restrict or abolish that jurisdiction; 20
- (b) as empowering the Legislature of a State for the time being specified in Part I or Part III of the First Schedule in which any such area is situate, to abolish that jurisdiction; or 25
- (c) as preventing the Legislature having power to make laws in that behalf for any such area, from passing, subject to the provisions of clause (b) of this article, such laws with respect to the jurisdiction of the court in relation to that area as it would be competent to pass if the principal seat of the court were in that area. 30

Interpretation.

209. Where a High Court exercises jurisdiction in relation to more than one State or in relation to a State and an area not forming part of the State—

- (a) references in this Chapter to the Governor in relation to the judges of a High Court shall be construed as references to the Governor of the State in which the court has its principal seat; 40
- (b) the reference to the approval by the Governor of rules, forms and tables for subordinate courts shall be construed as a refer-

ence to the approval thereof by the Governor or the Ruler of the State in which the subordinate court is situate, or if it is situate in an area not forming part of any State for the time being specified in Part I or Part III of the First Schedule, by the President: and 5

- (c) references to the revenues of the State shall be construed as references to the revenues of the State in which the court has its principal seat. 10

CHAPTER IX-*Auditors-in-Chief for the States

Auditor-in-
Chief for a
State.

210. (1) The Legislature of a State for the time being specified in Part I of the First Schedule may by law provide for the appointment of an Auditor-in-Chief for the State and when such provision has been made an Auditor-in-Chief for that State may be appointed by the Governor in his discretion and the Auditor-in-Chief so appointed shall only be removed from office in like manner and on the like grounds as a judge of the High Court of the State. 15 20

(2) An Act passed under clause (1) of this article by the Legislature of a State shall provide that no appointment of an Auditor-in-Chief for the State shall be made until the expiration of at least three years from the date of the publication after assent of the Act. 25

(3) Every such Act shall prescribe the conditions of service of the Auditor-in-Chief and the duties which shall be performed and the powers which shall be exercised by the Auditor-in-Chief in relation to the accounts of the State and shall declare the salary, allowances and pension payable to or in respect of the Auditor-in-Chief to be charged on the revenues of the State. 30 35

*The Committee is of opinion that the person performing the functions of an Auditor-General in a State should be designated as Auditor-in-Chief to distinguish him from the Auditor-General of India.

(4) The Auditor-in-Chief of the State shall be eligible for appointment as Auditor-General of India or as Auditor-in-Chief for any other State for the time being specified in Part I of the First Schedule but not for any other appointment either under the Government of India or under the Government of any State after he has ceased to hold his office. 5

(5) The salaries, allowances and pensions payable to or in respect of members of the staff of the Auditor-in-Chief of a State shall be fixed by the Auditor-in-Chief in consultation with the Governor and shall be charged upon the revenues of the State. 10

(6) Nothing in this article shall derogate from the power of the Auditor-General of India to give such directions in respect of the accounts of the States for the time being specified in Part I of the First Schedule as are mentioned in article 126 of this Constitution. 15

Audit reports.

211. The reports of the Auditor-General of India or the Auditor-in-Chief of the State, as the case may be, relating to the accounts of a State for the time being specified in Part I of the First Schedule shall be submitted to the Governor of the State, who shall cause them to be laid before the Legislature of the State. 20 25

PART VII

*The States in Part II of the First Schedule

Administra-
tion of States
in Part II of
the First
Schedule.

212. (1) Subject to the other provisions of this Part, a State for the time being specified in Part II of the First Schedule shall be administered by the President acting, to such extent as he thinks fit, through a Chief Commissioner or a Lieutenant-Governor to be appointed by him or through the Governor or Ruler of a neighbouring State: 5 10

Provided that the President shall not act through the Governor or Ruler of a neighbouring State save after—

- (a) consulting the Governor or Ruler concerned; and 15
- (b) ascertaining in such manner as the President considers most appropriate the wishes of the people of the State to be so administered.

** (2) Any State for the time being specified in Part III of the First Schedule whose Ruler has ceded full and exclusive authority, jurisdiction and powers for and in relation to the governance of the State to the Government of India shall be administered in all respects as if the State were for the time being specified in Part II of the First Schedule; and, accordingly, all the provisions of this Constitution relating to States specified in the said Part II shall apply to such State. 20 25

*The Committee is of opinion that it is not necessary to make any detailed provisions with regard to the Constitution of the States specified in Part II of the First Schedule which are at present Chief Commissioners' Provinces on the lines suggested by the *ad hoc* Committee on Chief Commissioners' Provinces in their recommendations. The revised provisions proposed in this Part would enable the recommendations of the *ad hoc* Committee, if adopted by the Constituent Assembly, to be given effect to by the President by order.

**This clause has been inserted by the Committee to provide for the administration of States in Part III of the First Schedule (e. g. the Orissâ States) which have ceded full and exclusive authority, jurisdiction and powers to the Government of India.

Creation or
continuance
of local Legis-
lature or
Council of
Advisers.

213. The President may, by order, create or continue for any State for the time being specified in Part II of the First Schedule and administered through a Chief Commissioner or Lieutenant-Governor—

5

(a) a local Legislature, or

(b) a Council of Advisers

or both, with such constitution, powers and functions, in each case, as may be specified in the order.

214. Until other provision is made in this behalf¹⁰ by the President, the constitution, powers and functions of the Coorg Legislative Council and the arrangements with respect to revenues collected in Coorg and expenses in respect of Coorg shall remain unchanged.¹⁵

Part VIII

The Territories in Part IV of the First Schedule and other Territories Not Specified in that Schedule

Administra-
tion of terri-
tories speci-
fied in Part
IV of the
First Sche-
dule and
other terri-
tories not
specified in
that Sche-
dule.

215. (1) Any territory specified in Part IV of the 5
First Schedule and any other territory comprised
within the territory of India but not specified in
that Schedule shall be administered by the President
acting, to such extent as he thinks fit, through a
Chief Commissioner or other authority to be 10
appointed by him.

(2) The President may make regulations for the
peace and good government of any such territory and
any regulation so made may repeal or amend any 15
law made by Parliament or any existing law which
is for the time being applicable to such territory
and, when promulgated by the President, shall
have the same force and effect as an Act of Par-
liament which applies to such territory.

PART IX

Relations between the Union and the States

CHAPTER I—Legislative Relations

DISTRIBUTION OF LEGISLATIVE POWERS

5

Extent of laws made by Parliament and by the Legislatures of States.

216. (1) Subject to the provisions of this Constitution, Parliament may make laws for the whole or any part of the territory of India, and the Legislature of a State may make laws for the whole or any part of the State.

10

(2) No law made by Parliament shall be deemed to be invalid on the ground that it would have extra-territorial operation.

Subject-matter of laws made by Parliament and by the Legislatures of States.

*217. (1) Notwithstanding anything in the two next succeeding clauses, Parliament has exclusive power to make laws with respect to any of the matters enumerated in List I in the Seventh Schedule (in this Constitution referred to as the "Union List").

15

(2) Notwithstanding anything in the next succeeding clause, Parliament and, subject to the preceding clause, the Legislature of any State for the time being specified in Part I of the First Schedule also, have power to make laws with respect to any of the matters enumerated in List III in the 25

*Shri Alladi Krishnaswami Ayyar was of opinion that instead of following the old plan of legislative distribution this clause might, in view of the fact that the residuary power is to be in Parliament, begin with the legislative powers of the State, then deal with the concurrent powers and then with the legislative powers of Parliament. As the question was merely one of form, the majority of the members preferred not to disturb the existing arrangement.

Seventh Schedule (in this Constitution referred to as the "Concurrent List").

(3) Subject to the two preceding clauses, the Legislature of any State for the time being specified in Part I of the First Schedule has exclusive power to make laws for such State or any part thereof with respect to any of the matters enumerated in List II in the Seventh Schedule (in this Constitution referred to as the "State List"). 5

(4) Parliament has power to make laws with respect to any matter for any part of the territory of India not included for the time being in Part I or Part III of the First Schedule notwithstanding that such matter is a matter enumerated in the State List. 15

Legislation with respect to the Supreme Court.

***218. Parliament has the exclusive power to make laws with respect to the constitution, organisation, jurisdiction and powers of the Supreme Court.**

Power of Parliament to provide for the establishment of certain additional courts.

219. Notwithstanding anything in this Chapter, Parliament may by law provide for the establishment of any additional courts for the better administration of laws made by Parliament or of any existing law with respect to a matter enumerated in the Union List. 25

Legislation with respect to constitution and organisation of High Courts.

***220. (1) The Legislature of a State for the time being specified in Part I of the First Schedule has the exclusive power to make laws with respect to the constitution and organisation of any High Court having its principal seat within such State.** 30

(2) Parliament has power to make laws with respect to the constitution and organisation of any High Court having its principal seat in a State for the time being specified in Part II of the First Schedule. 35

*Some members of the Committee consider that articles 218, 220, 221 and 222 are not necessary in view of article 217.

Legislation
with respect
to jurisdic-
tion and
powers of
High Courts.

***221. (1)** Parliament has the exclusive power to make laws regarding the jurisdiction and powers of any High Court with respect to any of the matters enumerated in the Union List.

(2) The Legislature of a State for the time being specified in Part I of the First Schedule in relation to which or in relation to any area within which a High Court exercises jurisdiction has the exclusive power to make laws regarding the jurisdiction and powers of such High Court in relation to such State or area with respect to any of the matters enumerated in the State List. 5 10

(3) Parliament and also the Legislature of a State for the time being specified in Part I of the First Schedule in relation to which or in relation to any area within which a High Court exercises jurisdiction have power to make laws regarding the jurisdiction and powers of such High Court in relation to such State or area with respect to any of the matters enumerated in the Concurrent List. 15 20

(4) Parliament has power to make laws regarding the jurisdiction and powers of a High Court in relation to a State for the time being specified in Part II of the First Schedule or any area within such State with respect to any of the matters enumerated in the State List. 25

Legislation
with respect
to the pro-
cedure to be
followed by
High Courts
in civil and
criminal
matters.

***222.** Parliament and also the Legislature of a State for the time being specified in Part I of the First Schedule in which a High Court has its principal seat have power to make laws with respect to the procedure to be followed by such High Court in civil and criminal matters. 30

Residuary
powers of
legislation.

223. (1) Parliament has exclusive power to make any law with respect to any matter not enumerated in the Concurrent List or State List. 35

(2) Such power shall include the power of making any law imposing a tax not mentioned in either of those Lists.

*Some members of the Committee consider that articles 218, 220, 221 and 222 are not necessary in view of article 217.

Restriction
on powers of
Parliament to
make laws
with respect
to certain
matters in
relation to
States in Part
III of the First
Schedule.

***224. Notwithstanding anything in clause (1) of article 217 of this Constitution—**

- (a) Parliament shall not have power to make laws with respect to any right relating to posts and telegraphs in any State or group of States for the time being specified in Part III of the First Schedule subsisting at the date of commencement of this Constitution until such right is extinguished by agreement between the Government of India and that State or group of States or is acquired by the Government of India: 5

Provided that nothing in this clause shall prevent Parliament from making any law for the regulation and control of posts and telegraphs in such State or group of States; 15

- (b) the power of Parliament to make laws with respect to telephones, wireless, broadcasting and other like forms of communication in any State for the time being specified in Part III of the First Schedule shall extend only to the making of laws for their regulation and control; 20 25

- (c) the power of Parliament to make laws with respect to corporations shall not include the power to make laws with respect to the incorporation, regulation and winding up of corporations owned or controlled by a State for the time being specified in Part III of the First Schedule and carrying on business only within that State. 30

Extent of
power to
legislate for
States in Part
III of the
First Schedule.

225. Notwithstanding anything in this Chapter, the power of Parliament to make laws for a State or a group of States for the time being specified in Part III of the First Schedule shall be subject to the terms of any agreement entered into in that behalf by that State or group of States with the Government of India and the limitations contained therein. 35 40

* The Committee is of opinion that some articles of this Chapter will require rearrangement before the Constitution is finally passed by the Constituent Assembly.

Power of Parliament to legislate with respect to a matter in the State List in the national interest.

***226.** Notwithstanding anything in the foregoing provisions of this Chapter, if the Council of States has declared by resolution supported by not less than two-thirds of the members present and voting that it is necessary or expedient in the national interest that Parliament should make laws with respect to any matter enumerated in the State List specified in the resolution, it shall be lawful for Parliament to make laws for the whole or any part of the territory of India with respect to that matter. 10

Power of Parliament to legislate with respect to any matter in the State List if a Proclamation of Emergency is in operation.

227. (1) Notwithstanding anything in this Chapter, Parliament shall, while a Proclamation of Emergency is in operation, have power to make laws for the whole or any part of the territory of India with respect to any of the matters enumerated in the State List. 15

(2) A law made by Parliament which Parliament would not but for the issue of a Proclamation of Emergency have been competent to make shall, to the extent of the incompetency, cease to have effect on the expiration of a period of six months after the Proclamation has ceased to operate, except as respects things done or omitted to be done before the expiration of the said period. 20

Inconsistency between laws made by Parliament under articles 226 and 227 and laws made by the Legislatures of States.

****228.** Nothing in articles 226 and 227 of this Constitution shall restrict the power of the Legislature of a State to make any law which under this Constitution it has power to make, but if any provision of a law made by the Legislature of a State is repugnant to any provision of a law made by Parliament which Parliament has under either of the said articles power to make, the law made by Parliament, 25 30

* The Committee is of opinion that power should be provided for Parliament to legislate with respect to any matter in the State List when it assumes national importance, and has inserted this article for the purpose.

** The Committee by a majority has decided that when Parliament makes a law with respect to any matter in the State List in the national interest it should be treated as akin to a matter in the Concurrent List, but Shri Alladi Krishnaswami Ayyar is against the retention of power of legislation to the States in such cases as in his opinion the retention of such power would offer a premium for the Union gradually encroaching on the State field and striking at the federal structure of the constitution.

whether passed before or after the law made by the Legislature of the State shall prevail, and the law made by the Legislature of the State shall to the extent of the repugnancy, but so long only as the law made by Parliament continues to have effect, be inoperative. 5

Power of Parliament to legislate for one or more States by consent and adoption of such legislation by any other State.

229. (1) If it appears to the Legislature or Legislatures of one or more States to be desirable that any of the matters with respect to which Parliament has no power to make laws for the State or States except as provided in articles 226 and 227 of this Constitution should be regulated in such State or States by Parliament by law, and a resolution or resolutions to that effect is or are passed by the House or, where there are two Houses, by both the Houses of the Legislature of the State or of each of the States, it shall be lawful for Parliament to pass an Act for regulating that matter accordingly, and any Act so passed shall apply to such State or States and to any other State by which it is adopted afterwards by resolution passed in that behalf by the House or, where there are two Houses, by each of the Houses of the Legislature of that State. 10 15 20

*(2) Any Act so passed by Parliament may be amended or repealed by an Act of Parliament passed or adopted in like manner but shall not, as respects any State to which it applies, be amended or repealed by an Act of the Legislature of that State. 25

Legislation for giving effect to international agreements.

**230. Notwithstanding anything in the foregoing provisions of this Chapter, Parliament has power to make any law for any State or part thereof for implementing any treaty, agreement or convention with any other country or countries. 30

* The Committee is of opinion that an Act passed by Parliament with the consent of the States should not be allowed to be amended or repealed by any Act of the Legislature of any State to which it applies, but should be amended or repealed only by an Act of Parliament passed or adopted in the same manner in which the principal Act was passed or adopted. This is in conformity with the provisions of section 51 (xxvii) read with section 109 of the Commonwealth of Australia Constitution Act.

** The Committee is of opinion that Parliament should have unfettered power to make any law for any State or part thereof for implementing any treaty, agreement or convention with any foreign country or countries.

Inconsistency
between laws
made by
Parliament
and laws
made by the
Legislatures
of States.

231. (1) If any provision of a law made by the Legislature of a State is repugnant to any provision of a law made by Parliament which Parliament is competent to enact, or to any provision of any existing law regarding a matter with respect to which Parliament has power to make laws, then, subject to the provisions of clause (2) of this article, the law made by Parliament, whether passed before or after the law made by the Legislature of such State or, as the case may be, the existing law shall prevail and the law made by the Legislature of the State shall, to the extent of the repugnancy, be void.

(2) Where a law made by the Legislature of a State for the time being specified in Part I of the First Schedule with respect to one of the matters enumerated in the Concurrent List contains any provision repugnant to the provisions of an earlier law made by Parliament or any existing law with respect to that matter, then the law so made by the Legislature of such State shall, if it has been reserved for the consideration of the President and has received his assent, prevail:

Provided that nothing in this clause shall prevent Parliament from enacting at any time any law with respect to the same matter including a law adding to, amending, varying or repealing the law so made by the Legislature of the State.

Restriction on Legislative Powers

Require-
ments as to
recommendations to be
regarded as
matters of
procedure
only.

232. No Act of Parliament or of a Legislature of a State for the time being specified in Part I of the First Schedule and no provision in any such Act shall be invalid by reason only that some recommendation required by this Constitution was not given, if assent to that Act was given—

- (a) where the recommendation required was that of the Governor, either by the Governor or by the President;
- (b) where the recommendation required was that of the President, by the President.

CHAPTER II—Administrative Relations

General

Obligation of
States and
the Union.

233. The executive power of every State shall be so exercised as to ensure compliance with the laws 5 made by Parliament and any existing laws which apply in that State and the executive power of the Union shall extend to the giving of such directions to a State as may appear to the Government of India to be necessary for this purpose. 10

Duty of
States not to
impede or
prejudice
authority of
the Union.

234. (1) The executive power of every State shall be so exercised as not to impede or prejudice the exercise of the executive power of the Union, and the executive power of the Union shall extend to the giving of such directions to a State as may appear 15 to the Government of India to be necessary for that purpose.

(2) The executive power of the Union shall also extend to the giving of directions to a State as to the construction and maintenance of means of commu- 20 nication declared in the direction to be of national or military importance:.

Provided that nothing in this clause shall, be taken as restricting the power of Parliament to declare highways or waterways to be national high- 25 ways or national waterways or the power of the Union with respect to the highways or waterways so declared or the power of the Union to construct and maintain means of communication as part of its functions with respect to naval, military and air 30 force works.

Power of the
Union to
confer powers,
etc. on States
in certain
cases.

235. (1) Notwithstanding anything in this Constitution, the President may with the consent of the Government of a State, entrust either conditionally or unconditionally to that Government or to its 35 officers functions in relation to any matter to which the executive power of the Union extends.

(2) A law made by Parliament which applies in any State may, notwithstanding that it relates to a matter with respect to which the Legislature of the 40 State has no power to make laws, confer powers and

impose duties, or authorise the conferring of powers and the imposition of duties, upon the State or officers and authorities thereof.

(3) Where by virtue of this article powers and duties have been conferred or imposed upon a State or officers or authorities thereof, there shall be paid by the Government of India to the State such sum as may be agreed or, in default of agreement, as may be determined by an arbitrator appointed by the Chief Justice of India in respect of any extra costs of administration incurred by the State in connection with the exercise of those powers and duties.

Power of the Union to undertake legislative, executive or judicial functions in certain States.

236. (1) The Government of India may by agreement with any State for the time being specified in Part III of the First Schedule, but subject to the provisions of this Constitution in regard to the relationship between the Union and such State, undertake any executive, legislative or judicial functions vested in that State.

(2) The Government of India may also enter into such an agreement with the Government of any Indian State not specified for the time being in the First Schedule, but every such agreement shall be subject to, and governed by, the law relating to the exercise of foreign jurisdiction for the time being in force.

Explanation.—In this clause, the expression “Indian State” means any territory, not being part of the territory of India which the President recognises as being such a State.

(3) If an agreement entered into with any State under clause (1) of this article provides for any matter with respect to which provision has been already made in an agreement entered into with such a State under article 237 of this Constitution by the Government of any State for the time being specified in Part I of the First Schedule, then the latter agreement shall, in so far as it provides for such matter, be deemed to be revoked and of no effect on and from the date of conclusion of the former agreement.

(4) On an agreement under clause (1) of this article being concluded between the Union and a State for the time being specified in Part III of the First Schedule—

- (a) the executive power of the Union shall extend to any matter specified in that behalf in such agreement;
- (b) Parliament shall have power to make laws with respect to any matter specified in that behalf in such agreement; and 5
- (c) the Supreme Court of India shall, subject to the provisions of clause (2) of article 114 of this Constitution, have jurisdiction with respect to any matter specified in that behalf in such agreement. 10

Power of States in Part I of the First Schedule to undertake legislative, executive or judicial functions in a State in Part III of the First Schedule.

237. (1) It shall be competent for the Government of a State for the time being specified in Part I of the First Schedule with the previous sanction of the President to undertake, by an agreement made in that behalf with any State for the time being specified in Part III of the First Schedule, any legislative, executive or judicial functions vested in the latter State, if such agreement relates to a matter which is enumerated in the State List or the current List. 15 20

(2) On an agreement under clause (1) of this article being concluded between a State for the time being specified in Part I of the First Schedule and a State for the time being specified in Part III of that Schedule— 25

- (a) the executive power of the State specified in Part I of the said Schedule shall extend to any matter specified in that behalf in such agreement; 30
- (b) the Legislature of the State specified in Part I of the said Schedule shall have power to make laws with respect to any matter specified in that behalf in such agreement; and 35
- (c) the High Court and other appropriate courts in the State specified in Part I of the said Schedule shall have jurisdiction with respect to any matter specified in that behalf in such agreement. 40

Public acts,
records and
judicial pro-
ceedings.

***238. (1)** Full faith and credit shall be given throughout the territory of India to public acts, records and judicial proceedings of the Union and of every State.

(2) The manner in which and the conditions under which the acts, records and proceedings referred to in clause (1) of this article shall be proved and the effect thereof determined shall be as provided by law.

(3) Final judgments or orders delivered or passed by civil courts in any part of the territory of India shall be capable of execution anywhere within that territory according to law:

Provided that the provisions of clauses (1) and (3) of this article shall not apply to public acts, records and judicial proceedings of, and the final judgment or order delivered or passed by civil courts in, any State for the time being specified in Part III of the First Schedule unless Parliament has, under the terms of any agreement entered into in that behalf by such State with the Union, power to make laws with respect to the matters enumerated in entries 2, 4 and 5 of the Concurrent List.

Interference with Water-Supplies

Complaints
as to inter-
ference with
water supp-
lies.

239. If it appears to the Government of any State for the time being specified in Part I or Part III of the First Schedule that the interests of that State, or of any of the inhabitants thereof, in the water from any natural source of supply in any State have been, or are likely to be affected prejudicially by—

(a) any executive action or legislation taken or passed, or proposed to be taken or passed;
or

* The Committee is of opinion that this article should more appropriately be included in this Chapter than in Part III dealing with Fundamental Rights.

The Committee is further of opinion that effect ought not to be given to the provisions of this article in relation to every State for the time being specified in Part III of the First Schedule as the laws relating to subjects, such as Civil Procedure, Criminal Procedure and Evidence, enumerated in the Concurrent List may be different in different States. The Committee has therefore revised this clause so as to restrict its application only to such of those States as have acceded to the Union in respect of such subjects in the Concurrent List.

(b) the failure of any authority to exercise any of their powers, with respect to the use, distribution or control of water from that source, the Government of the State may complain to the President.

5

Decision of complaints.

240. (1) If the President receives such a complaint as aforesaid, he shall, unless he is of opinion that the issues involved are not of sufficient importance to warrant such action, appoint a Commission consisting of such persons having special knowledge 10 and experience in irrigation, engineering, administration, finance or law as he thinks fit, and request that Commission to investigate in accordance with such instructions as he may give to them, and to report to him on the matters to which the com- 15 plaint relates, or such of those matters as he may refer to them.

(2) A Commission so appointed shall investigate the matters referred to them and present to the President a report setting out the facts as found by them 20 and making such recommendations as they think proper.

(3) If it appears to the President upon consideration of the Commission's report that anything therein contained requires explanation, or that he needs 25 guidance upon any point not originally referred by him to the Commission, he may again refer the matter to the Commission for further investigation and a further report.

(4) For the purposes of assisting a Commission 30 appointed under this article in investigating any matters referred to them, the Supreme Court, if requested by the Commission so to do, shall make such orders for the purposes of the proceedings of the Commission as they may make in the exercise of the 35 jurisdiction of the court.

(5) The report of the Commission shall include a recommendation as to the Government or persons by whom the expenses of the Commission and any costs incurred by any State or persons in appearing before 40 the Commission are to be paid and as to the amount of any expenses or costs to be so paid; and an order made by the President under this article, in so far as it relates to expenses or costs, may be enforced as if it were an order made by the Supreme Court. 45

(6) After considering any report made to him by the Commission the President shall, subject as hereinafter provided, make orders in accordance with the report.

(7) If upon consideration of the Commission's report the President is of opinion that anything therein contained involves a substantial question of law, he shall refer the question to the Supreme Court under article 119 of this Constitution and on receipt of the opinion of the Supreme Court thereon shall, unless the Supreme Court has agreed with the Commission's report, return the report to the Commission together with the opinion and the Commission shall thereupon make such modifications in the report as may be necessary to bring it in accord with such opinion and present the report as so modified to the President.

(8) Effect shall be given, in any State affected, to any order made under this article by the President, and any Act of the Legislature of a State which is repugnant to the order shall, to the extent of the repugnancy, be void.

(9) The President, on application made to him by the Government of any State affected, may at any time, if a Commission appointed as aforesaid so recommend, vary any order made under this article.

Interference
with water
supplies of
States in
Part II of the
First Schedule.

241. If it appears to the President that the interests of any State for the time being specified in Part II of the First Schedule, or of any of the inhabitants of such a State, in the water from any natural source of supply in any State for the time being specified in Part I or Part III of the First Schedule have been or are likely to be affected prejudicially by—

(a) any executive action or legislation taken or passed, or proposed to be taken or passed;
or

(b) the failure of any authority to exercise any of their powers,

with respect to the use, distribution or control of water from that source, he may, if he thinks fit, refer the matter to a Commission appointed in accordance with the provisions of the last preceding article and

thereupon those provisions shall apply as if the State for the time being specified in Part II of the First Schedule were a State for the time being specified in Part I of that Schedule and as if a complaint with respect to the matter had been made by the Govern- 5 ment of that State to the President.

Jurisdiction
of courts ex-
cluded.

242. Notwithstanding anything in this Constitu-
tion, neither the Supreme Court nor any other court
shall have jurisdiction to entertain any action or suit
in respect of any matter, if action in respect of that 10
matter might have been taken under any of the three
last preceding articles by the Government of a State
or the President.

Inter-State Trade and Commerce

Prohibition
of preference
or discrimi-
nation to one
State over
another
by any law
or regula-
tion relating
to trade or
commerce.

*243. No preference shall be given to one State 15
over another nor shall any discrimination be made
between one State and another by any law or regula-
tion relating to trade or commerce, whether carried
by land, water or air.

Restriction
on trade,
commerce and
intercourse
between
States.

*244. Notwithstanding anything contained in 20
article 16 or in the last preceding article of this
Constitution, it shall be lawful for any State—

- (a) to impose on goods imported from other
States any tax to which similar goods
manufactured or produced in that State 25
are subject, so, however, as not to dis-
criminate between goods so imported and
goods so manufactured or produced; and
- (b) to impose by law such reasonable restrictions
on the freedom of trade, commerce or 30
intercourse with that State as may be
required in the public interests:

Provided that during a period of five years from
the commencement of this Constitution the provisions

* The Committee is of opinion that the provisions contained
in articles 243 and 244 should more appropriately be included
in this Chapter than in Part III dealing with Fundamental Rights.

of clause (b) of this article shall not apply to trade or commerce in any of the commodities mentioned in clause (a) of article 306 of this Constitution.

Appointment of authority to carry out the provisions of articles 243 and 244.

*245. Parliament shall by law appoint such authority as it considers appropriate for the carrying out of the provisions of articles 243 and 244 of this Constitution and confer on the authority so appointed such powers and such duties as it thinks necessary. 5

Co-ordination between States

Provisions with respect to an Inter-State Council.

246. If at any time it appears to the President that the public interests would be served by the establishment of a Council charged with the duty of— 10

- (a) inquiring into and advising upon disputes which may have arisen between States;
- (b) investigating and discussing subjects in which some or all of the States, or the Union and one or more of the States have a common interest; or 15
- (c) making recommendations upon any such subject and, in particular, recommendations for the better co-ordination of policy and action with respect to that subject, 20

it shall be lawful for the President by order to establish such a Council and to define the nature of the duties to be performed by it and its organisation and procedure. 25

*The Committee is of opinion that it would be more appropriate to provide for the appointment of an authority by law for the purpose of carrying out the provisions of articles 243 and 244 instead of providing for an Inter-State Commission with limited powers as such a Commission, if appointed with powers only to adjudicate disputes as to trade or commerce, may not have sufficient work to do.

PART X

Finance, Property, Contracts and Suits

CHAPTER I—Finance

*DISTRIBUTION OF REVENUES BETWEEN THE UNION AND THE STATES

5

Interpretation

247. In this Part, unless the context otherwise requires,—

- (a) "Finance Commission" means a Finance Commission constituted under article 260 of this Constitution; 10
- (b) "State" does not include a State for the time being specified in Part II of the First Schedule;
- (c) references to States for the time being specified in Part II of the First Schedule shall include references to any territory specified in Part IV of the First Schedule and any other territory comprised within the territory of India but not specified in that Schedule. 20

Meaning of-
"revenues of
India" and
"revenues of
the State."

248. Subject to the following provisions of this Chapter with respect to the assignment of the whole or part of the net proceeds of certain taxes and duties to States, the expression 'revenues of India' includes all revenues and public moneys raised or received by the Government of India and the expression 'revenues of the State' includes all revenues and public moneys raised or received by the Government of a State. 25

*The Committee has not embodied in the Draft the recommendations of the Expert Committee on the Financial Provisions of the Constitution with regard to the distribution of revenues between the Union and the States, as the Committee is of opinion that in view of the unstable conditions prevailing at the present moment the existing distribution of such revenues under the Government of India Act, 1935, should continue for at least five years, after which a Finance Commission may review the position. The Committee agrees with the Expert Committee that steps should be taken for the collection, compilation and maintenance of statistical information referred to in paragraph 66 of the report of the Expert Committee in order that such information might be available to the Finance Commission when appointed.

Duties levied by the Union but collected and appropriated by the States.

249. (1) Such stamp duties and such duties of excise on medicinal and toilet preparations as are mentioned in the Union List shall be levied by the Government of India but shall be collected—

- (a) in the case where such duties are leviable within any State for the time being specified in Part II of the First Schedule, by the Government of India, and 5
- (b) in other cases, by the States within which such duties are respectively leviable. 10

(2) The proceeds in any financial year of any such duty leviable in that year within any State shall not form part of the revenues of India, but shall be assigned to that State.

Taxes levied and collected by the Union but assigned to the States.

250. (1) The following duties and taxes shall be levied and collected by the Government of India but shall be assigned to the States in the manner provided in clause (2) of this article, namely:—

- (a) duties in respect of succession to property other than agricultural land; 20
- (b) estate duty in respect of property other than agricultural land;
- (c) terminal taxes on goods or passengers carried by railway or air;
- (d) taxes on railway fares and freights. 25

(2) The net proceeds in any financial year of any such duty or tax, except in so far as those proceeds represent proceeds attributable to States for the time being specified in Part II of the First Schedule, shall not form part of the revenues of India, but shall be assigned to the States within which that duty or tax is leviable in that year, and shall be distributed among those States in accordance with such principles of distribution as may be formulated by Parliament by law. 30 35

Taxes levied and collected by the Union and distributed between the Union and the States.

251. (1) Taxes on income other than agricultural income shall be levied and collected by the Government of India and distributed between the Union and the States in the manner provided in clause (2) of this article. 40

(2) Such percentage, as may be prescribed, of the net proceeds in any financial year of any such

tax, except in so far as those proceeds represent proceeds attributable to States for the time being specified in Part II of the First Schedule or the taxes payable in respect of Union emoluments, shall not form part of the revenues of India, but shall be assigned to the States within which that tax is leviable in that year, and shall be distributed among those States in such manner and from such time as may be prescribed.

(3) For the purposes of clause (2) of this article, 10 in each financial year such percentage as may be prescribed of so much of the net proceeds of taxes on income as does not represent the net proceeds of taxes payable in respect of Union emoluments shall be deemed to represent proceeds attributable to 15 States for the time being specified in Part II of the First Schedule.

(4) In this article—

(a) "taxes on income" includes any sum levied by the Government of India in lieu of 20 any tax on income as referred to in clause (a) of the proviso to article 266 of this Constitution but does not include a corporation tax;

(b) "prescribed" means— 25

(i) until a Finance Commission has been constituted, prescribed by the President by order, and

(ii) after a Finance Commission has been constituted, prescribed by the President by order after considering the recommendations of the Finance Commission. 30

(c) "Union emoluments" includes all emoluments and pensions payable out of the 35 revenues of India in respect of which income-tax is chargeable.

Surcharge on certain duties and taxes for purposes of the Union.

252. Notwithstanding anything contained in articles 250 and 251 of this Constitution, Parliament may at any time increase any of the duties or taxes 40 referred to in those articles by a surcharge for purposes of the Union and the whole proceeds of any such surcharge shall form part of the revenues of India.

Taxes which are levied and collected by the Union and may be distributed between the Union and the States.

***253. (1) No duties on salt shall be levied by the Union.**

(2) Union duties of excise other than such duties of excise on medicinal and toilet preparations as are mentioned in the Union List shall be levied and collected by the Government of India, but, if Parliament by law so provides, there shall be paid out of the revenues of India to the States to which the law imposing the duty extends, sums equivalent to the whole or any part of the net proceeds of that duty, and those sums shall be distributed among those States in accordance with such principles of distribution as may be formulated by such law.

Distribution of duty on jute or jute products.

254. Notwithstanding anything in article 253 of this Constitution, such proportion, as Parliament may by law determine, of the net proceeds in each year of any export duty on jute or jute-products shall not form part of the revenues of India, but shall be assigned to the States in which jute is grown in accordance with such principles of distribution as may be formulated by such law:

Provided that until Parliament so determine, there shall be assigned to those States out of the net proceeds of the duty in each year such part thereof and in such proportions as may have been fixed in that behalf by any order made under the Government of India Act, 1935, and in force immediately before the commencement of this Constitution.

Grants from the Union to certain States.

255. Such sums, as Parliament may by law provide, shall be charged on the revenues of India in each year as grants-in-aid of the revenues of such States as Parliament may determine to be in need of assistance, and different sums may be fixed for different States:

Provided that there shall be paid out of the revenues of India as grants-in-aid of the revenues of a State for the time being specified in Part I of the

* The majority of the members of the Committee are of opinion that there should be no constitutional prohibition regarding the duty on salt and its levy should be left to the discretion of Parliament and accordingly clause (1) of this article is not necessary; but Shri Alladi Krishnaswami Ayyar is of opinion that this clause should be retained.

First Schedule such capital and recurring sums as may be necessary to enable that State to meet the costs of such schemes of development as may be undertaken by the State with the approval of the Government of India for the purpose of promoting the welfare of the scheduled tribes in that State or raising the level of administration of the scheduled areas in that State to that of the administration of the rest of the areas of that State:

Provided further that there shall be paid out of the revenues of India as grants-in-aid of the revenues of the State of Assam sums, capital and recurring, equivalent to—

- (a) the average excess of expenditure over the revenues during the three years immediately preceding the commencement of this Constitution in respect of the administration of the tribal areas specified in Part I of the table appended to paragraph 19 of the sixth Schedule; and
- (b) the costs of such schemes of development as may be undertaken by that State with the approval of the Government of India for the purpose of raising the level of administration of the said areas to that of the administration of the rest of the areas of that State.

Taxes on professions, trades, callings and employments.

256. (1) Notwithstanding anything in article 217 of this Constitution but subject to the provisions of clauses (2) and (3) of this article, the Legislature of a State shall have power to make laws with respect to taxes on professions, trades, callings and employments for the benefit of the State or of a municipality, district board, local board or other local authority therein.

(2) The total amount payable in respect of any one person to the State or to any one municipality, district board, local board or other local authority in the State by way of taxes on professions, trades, callings and employments shall not exceed two hundred and fifty rupees per annum:

Provided that, if in the financial year immediately preceding the commencement of this Constitution there was in force in any State or any such munici-

pality, board or authority, a tax on professions, trades, callings or employments, the rate, or the maximum rate, of which exceeded two hundred and fifty rupees per annum, such tax may continue to be levied until provision to the contrary is made by Parliament by law, and any law so made by Parliament may be made either generally or in relation to any specified States, municipalities, boards or authorities.

(3) The power of the Legislature of a State to make laws as aforesaid with respect to taxes on professions, trades, callings and employments shall not be construed as limiting in any way the power of Parliament to make laws with respect to taxes on income accruing from or arising out of professions, trades, callings and employments.

Savings.

257. Any taxes, duties, cesses or fees which immediately before the commencement of this Constitution, were being lawfully levied by the Government of any State or by any municipality or other local authority or body for the purposes of the State, municipality, district or other local area may, notwithstanding that those taxes, duties, cesses or fees are mentioned in the Union List, continue to be levied and to be applied to the same purposes until provision to the contrary is made by Parliament.

Agreement with States specified in Part III of the First Schedule with regard to the levy, collection and distribution of taxes and duties.

258. (1) Notwithstanding anything contained in this Chapter, the Union may, subject to the provisions of clause (2) of this article, enter into an agreement with a State for the time being specified in Part III of the First Schedule with respect to the levy and collection of any tax or duty leviable by the Government of India in such State and for the distribution of the proceeds thereof otherwise than in accordance with the provisions of this Chapter and, when an agreement is so entered into, the provisions of this Chapter shall in relation to such State have effect subject to the terms of such agreement.

(2) An agreement entered into under clause (1) of this article shall continue in force for a period not exceeding ten years from the commencement of this Constitution:

Provided that the President may at any time after the expiration of five years from such commencement terminate or modify any such agreement if after consideration of the report of the Finance Commission he thinks it necessary to do so.

5

Calculation
of "net pro-
ceeds", etc.

259. (1) In the foregoing provisions of this Chapter, "net proceeds" means in relation to any tax or duty the proceeds thereof reduced by the cost of collection, and for the purposes of those provisions the net proceeds of any tax or duty, or of any 10 part of any tax or duty, in or attributable to any area shall be ascertained and certified by the Auditor-General of India, whose certificate shall be final.

(2) Subject as aforesaid, and to any other express provision in this Chapter, a law made by Parliament 15 or an order of the President may, in any case where under this Part of this Constitution the proceeds of any duty or tax are, or may be, assigned to any State, provide for the manner in which the proceeds are to be calculated, for the time from or at which 20 and the manner in which any payments are to be made, for the making of adjustments between one financial year and another, and for any other incidental or ancillary matters.

Finance
Commission.

260. (1) The President shall, at the expiration of 25 five years from the commencement of this Constitution and thereafter at the expiration of every fifth year or at such other time as the President considers necessary, by order constitute a Finance Commission which shall consist of a Chairman and four other 30 members to be appointed by the President.

(2) Parliament may, by law, determine the qualifications which shall be requisite for appointment as members of the Commission and the manner in which they shall be selected.

35

(3) It shall be the duty of the Commission to make recommendations to the President as to—

(a) the distribution between the Union and the States of the net proceeds of taxes which are to be, or may be, divided between them 40 under this Chapter and the allocation between the States of the respective shares of such proceeds;

- (b) the principles which should govern the grants-in-aid to the States out of the revenues of India;
- (c) the continuance or modification of the terms of any agreement entered into by the 5 Union with any State for the time being specified in Part III of the First Schedule as respects the levy, collection and distribution of any tax or duty leviable by the Government of India in such State; and 10
- (d) any other matter referred to the Commission by the President in the interest of sound finance.

(4) The Commission shall determine their procedure and shall have such powers in the performance 15 of their functions as Parliament may by law confer on them.

Recommendations of the Finance Commission.

261. The President shall cause every recommendation made by the Finance Commission under the foregoing provisions of this Chapter together with an 20 explanatory memorandum as to the action taken thereon to be laid before Parliament.

Miscellaneous Financial Provisions .

Expenditure defrayable out of the revenues of India.

262. The Union or a State may make any grants for any public purpose, notwithstanding that the 25 purpose is not one with respect to which Parliament or the Legislature of the State, as the case may be, may make laws.

Provisions as to the custody of public moneys.

263. (1) Rules may be made by the President and by the Governor of a State for the purpose of securing 30 that all moneys received on account of the revenues of India or of the State, as the case may be, shall, with such exceptions, if any, as may be specified in the rules, be paid into the public accounts of India or of the State, and the rules so made may prescribe, 35 or authorise some person to prescribe, the procedure to be followed in respect of the payment of moneys into the said account; the withdrawal of moneys therefrom, the custody of moneys therein and any other matter connected with or ancillary to the 40 matters aforesaid.

(2) Notwithstanding anything in this article, Parliament may by law regulate the custody of moneys received on account of the revenues of India— their payment into the public account of India and the withdrawal of moneys from such account, and the Legislature of a State may by law regulate the custody of all moneys received on account of the revenues of the State, their payment into the public account of the State and the withdrawal of moneys from such account, and any rules made under this article shall have effect subject to the provisions of any such law.

Exemption
of certain
public pro-
perty from
taxation.

264. The property of the Union shall, save in so far as Parliament may by law otherwise provide, be exempt from all taxes imposed by or by any authority within a State:

Provided that until Parliament, by law, otherwise provides, any property of the Union which was immediately before the commencement of this Constitution liable or treated as liable to any such tax shall, so long as that tax continues, continue to be liable or to be treated as liable thereto.

Exemption
from taxes
on electricity.

265. Save in so far as Parliament may, by law, otherwise provide, no law of a State shall impose, or authorise the imposition of, a tax on the consumption or sale of electricity (whether produced by Government or other person) which is—

(a) consumed by the Government of India, or sold to the Government of India for consumption by that Government; or

(b) consumed in the construction, maintenance or operation of a Union railway by the Government or a railway company operating that railway or sold to that Government or any such railway company for consumption in the construction, maintenance or operation of a Union railway,

and any such law imposing, or authorising the imposition of, a tax on the sale of electricity shall secure that the price of electricity sold to the Government of India for consumption by that Government, or to any such railway company as aforesaid for consumption in the construction, maintenance or

operation of a Union railway, shall be less by the amount of the tax than the price charged to other consumers of a substantial quantity of electricity.

Exemption
of the
Governments
of States in
respect of
Union taxa-
tion.

266. Subject as hereinafter provided, the Govern-
ment of a State shall not be liable to Union taxation 5
in respect of lands or buildings situate within the
territory of India, or income accruing, arising or
received within such territory:

Provided that—

(a) where a trade or business of any kind is 10
carried on by or on behalf of the Govern-
ment of a State, nothing in this article
shall exempt that Government from any
Union tax or the levy of a sum in lieu of
such tax in respect of that trade or 15
business or any operations connected
therewith, or any income arising in con-
nection therewith, or any property
occupied for the purposes thereof;

(b) nothing in this article shall exempt the 20
Ruler of any State for the time being
specified in Part III of the First Schedule
from any Union tax in respect of lands,
buildings or income being his personal
property or personal income. 25

Explanation.—For the purposes of this article,
any operations incidental to the ordinary functions of
the Government of a State, such as, the sale of the
forest produce of any forest under the control of the
Government of a State or of any article produced in 30
any jail within a State, shall not be deemed to be a
trade or business carried on by or on behalf of the
Government of the State.

Adjustments
in respect
of certain
expenses and
pensions.

267. Where under the provisions of this Consti-
tution the expenses of any court or Commission, or 35
pensions payable to or in respect of a person who has
served before the commencement of this Constitution
under the Crown in India, are charged on the
revenues of India or the revenues of a State for the
time being specified in Part I of the First Schedule, 40
then if—

- (a) in the case of a charge on the revenues of India, the court or Commission serves any of the separate needs of a State so specified, or the person has served wholly or in part in connection with the affairs of such a State; or 5
- (b) in the case of a charge on the revenues of a State so specified, the court or Commission serves any of the separate needs of the Union or another State so specified, or the person has served wholly or in part in connection with the affairs of the Union or another such State, 10

there shall be charged on and paid out of the revenues of the State or, as the case may be, the revenues of India or of the other State, such contribution in respect of expenses or pensions as may be agreed, or as may in default of agreement be determined by an arbitrator to be appointed by the Chief Justice of India. 20

CHAPTER II—Borrowing

Borrowing
by the
Government
of India.

268. The executive power of the Union extends to borrowing upon the security of the revenues of India within such limits, if any, as may from time to time be fixed by Parliament by law and to the giving of guarantees within such limits, if any, as may be so fixed. 25

Borrowing
by States.

269. (1) Subject to the provisions of this article, the executive power of a State for the time being specified in Part I of the First Schedule extends to borrowing within the territory of India upon the security of the revenues of the State within such limits, if any, as may from time to time be fixed by the Legislature of such State by law and to the giving of guarantees within such limits, if any, as may be so fixed. 35

(2) The Government of India may, subject to such conditions, if any, as it may think fit to impose, make loans to States for the time being specified in Part I

or Part III of the First Schedule or so long as any limits fixed under the last preceding article are not exceeded, give guarantees in respect of loans raised by any such State and any sums required for the purpose of making such loans shall be charged on the 5 revenues of India.

(3) A State for the time being specified in Part I or Part III of the First Schedule may not without the consent of the Government of India raise any loan if there is still outstanding any part of a loan which has 10 been made to the State by the Government of India or its predecessor Government or in respect of which a guarantee has been given by the Government of India or by its predecessor Government.

A consent under this clause may be granted sub- 15 ject to such conditions, if any, as the Government of India may think fit to impose.

CHAPTER III—Property, Contracts, Liabilities and Suits

Succession
to assets and
debts, rights
and liabilities.

270. As from the commencement of this Constitu- 20 tion, the Government of India and the Government of each State for the time being specified in Part I of the First Schedule shall respectively be the successors of the Government of the Dominion of India and of the corresponding Governors' Provinces as regards 25 all property, assets and liabilities subject to any adjustment made or to be made by reason of the creation before the commencement of this Constitu- tion of the Dominion of Pakistan or of the Provinces of West Bengal, East Bengal, West Punjab and East 30 Punjab.

Property ac-
cruing by
escheat or
lapse or as
bona vacantia.

271. Subject as hereinafter provided, any pro-
perty in the territory of India except the States
for the time being specified in Part III of the First
Schedule which, if this Constitution had not come 35
into operation, would have accrued to His Majesty
by escheat or lapse, or as bona vacantia for want of
a rightful owner, shall, if it is property situate in a
State for the time being specified in Part I of the
First Schedule, vest in such State for the purposes of 40

the Government of that State, and shall, in any other case, vest in the Union for the purposes of the Government of India:

Provided that any property which at the date when it would have so accrued to His Majesty was in the possession or under the control of the Government of India or the Government of a State for the time being specified in Part I of the First Schedule shall, according as the purposes for which it was then used or held were purposes of the Union or of a State so specified, vest in the Union for the purposes of the Government of India or in the State for the purposes of the Government of that State. 5 10

Power to
acquire
property.

272. (1) The executive power of the Union and of each State for the time being specified in Part I of the First Schedule shall extend, subject to any Act of the appropriate Legislature, to the grant, sale, disposition or mortgage of any property held for the purposes of the Union or of such State, as the case may be, and to the purchase or acquisition of property for those purposes respectively, and to the making of contracts. 15 20

(2) All property acquired for the purposes of the Union or of a State for the time being specified in Part I of the First Schedule shall vest in the Union or any such State, as the case may be. 25

Contracts.

273. (1) All contracts made in the exercise of the executive power of the Union or of a State for the time being specified in Part I of the First Schedule shall be expressed to be made by the President, or by the Governor of the State, as the case may be, and all such contracts and all assurances of property made in the exercise of that power shall be executed on behalf of the President or the Governor by such persons and in such manner as he may direct or authorise. 30 35

(2) Neither the President, nor the Governor of a State, shall be personally liable in respect of any contract or assurance made or executed for the purposes of this Constitution, or for the purposes of any enactment relating to the Government of India heretofore in force, nor shall any person making or executing such contract or assurance on behalf of any of them be personally liable in respect thereof. 40

Suits and
proceedings.

274. (1) The Government of India may sue or be sued by the name of the Government of India and the Government of a State for the time being specified in Part I of the First Schedule may sue or be sued by the name of the State and may, subject to any provisions which may be made by Act of Parliament or by the Legislature of such State, enacted by virtue of powers conferred by this Constitution, sue or be sued in relation to their respective affairs in the like cases as the Dominion of India and the corresponding Provinces might have sued or been sued if this Constitution had not been enacted. 5 10

(2) If at the date of commencement of this Constitution—

- (a) any legal proceedings are pending to which 15
the Dominion of India is a party, the Government of India shall be deemed to be substituted for the Dominion in those proceedings; and
- (b) any legal proceedings are pending to which 20
a Province is a Party, the corresponding State shall be deemed to be substituted for the Province in those proceedings.

PART XI

Emergency Provisions

Proclamation
of Emer-
gency.

275. (1) If the President is satisfied that a grave emergency exists whereby the security of India is threatened, whether by war or domestic violence, 5 he may by proclamation, make a declaration to that effect.

(2) A proclamation issued under clause (1) of this article (in this Constitution referred to as "a Proclamation of Emergency")— 10

(a) may be revoked by a subsequent proclamation;

(b) shall be laid before each House of Parliament;

(c) shall cease to operate at the expiration of 15 six months, unless before the expiration of that period it has been approved by resolutions of both Houses of Parliament.

(3) A Proclamation of Emergency declaring that the security of India is threatened by war or by 20 domestic violence may be made before the actual occurrence of war or of any such violence if the President is satisfied that there is imminent danger thereof.

Effect of
Proclamation
of Emer-
gency.

276. Where a Proclamation of Emergency is in 25 operation, then, notwithstanding anything contained in this Constitution—

(a) the executive power of the Union shall extend to the giving of directions to any State as to the manner in which the 30 executive power thereof is to be exercised;

(b) the power of Parliament to make laws with respect to any matter shall include power to make laws conferring powers and 35 imposing duties or authorising the conferring of powers and the imposition of duties upon the Government of India or officers and authorities of the Government of India as respects that matter. 40

Application of provisions relating to distribution of revenues during the period a Proclamation of Emergency is in operation.

Provisions in case of failure of constitutional machinery in States in Part I of the First Schedule.

277. The President may, while a Proclamation of Emergency is in operation, by order, direct that all or any of the provisions of articles 249 to 259 of this Constitution shall for such period, not extending in any case beyond the expiration of the financial year in which such proclamation ceases to operate, as may be specified in the order, have effect subject to such exceptions or modifications as he thinks fit. 5

278. (1) If the President, on receipt of a proclamation issued by the Governor of a State under article 188 of this Constitution, is satisfied that a situation has arisen in which the government of the State cannot be carried on in accordance with the provisions of this Constitution, he may by proclamation— 10

(a) assume to himself all or any of the functions of the Government of the State and all or any of the powers vested in or exercisable by the Governor or any body or authority in the State other than the Legislature of the State; 20

(b) declare that the powers of the Legislature of the State shall be exercisable only by Parliament;

and any such proclamation may contain such incidental and consequential provisions as may appear to him to be necessary or desirable for giving effect to the objects of the proclamation, including provisions for suspending in whole or in part the operation of any provisions of this Constitution relating to any body or authority in that State: 30

Provided that nothing in this clause shall authorise the President to assume to himself any of the powers vested in or exercisable by a High Court or to suspend, either in whole or in part, the operation of any provision of this Constitution relating to High Courts. 35

(2) Any such proclamation may be revoked or varied by a subsequent proclamation.

(3) A proclamation under this article—

(a) shall be laid before each House of Parliament; 40

- (b) except where it is a proclamation revoking a previous proclamation, shall cease to operate at the expiration of six months:

Provided that, if and so often as a resolution approving the continuance in force of such a proclamation is passed by both Houses of Parliament, the proclamation shall, unless revoked, continue in force for a further period of twelve months from the date on which under this clause it would otherwise have ceased to operate, but no such proclamation shall in any case remain in force for more than three years. 5

- (4) Where by a proclamation issued under clause (1) of this article it has been declared that the powers of the Legislature of the State shall be exercisable only by Parliament, it shall be competent— 15

(a) for Parliament to make laws conferring powers and imposing duties, or authorising the conferring of powers and the imposition of duties, upon the Government of India or officers and authorities of the Government of India; 20

(b) for the President to promulgate Ordinances under article 102 of this Constitution except when both Houses of Parliament are in session. 25

(5) Any law made by Parliament which Parliament would not but for the issue of a proclamation under this article have been competent to make shall to the extent of the incompetency cease to have effect on the expiration of a period of one year after the proclamation has ceased to operate, except as respects things done or omitted to be done before the expiration of the said period unless the provisions which shall so cease to have effect are sooner repealed or re-enacted with or without modification by Act of the Legislature of the State. 30 35

Suspension
of provisions
of article 13
during
emergencies.

279. While a Proclamation of Emergency is in operation, nothing in article 13 of Part III of this Constitution shall restrict the power of the State as defined in that Part to make any law or to take any executive action which the State would otherwise be competent to make or to take. 40

Suspension
of the rights
guaranteed
by article
25 of this
Constitution
during
emergencies.

***280. Where a Proclamation of Emergency is in operation, the President may by order declare that the rights guaranteed by article 25 of this Constitution shall remain suspended for such period not extending beyond a period of six months after 5 the proclamation has ceased to be in operation as may be specified in such order.**

* The Committee is of opinion that no provision should be made for suspension of the Fundamental Rights under article 13 or for suspension of the enforcement of such rights under article 25 where an emergency is declared by the Government of a State for the time being specified in Part III of the First Schedule as it will create unnecessary complications.

PART XII

Services under the Union and the States

CHAPTER I -- *Services

Inter-
pretation.

281. In this Part, unless the context otherwise requires, the expression "State" means a State for the time being specified in Part I of the First Schedule. 5

Recruitment
and condi-
tions of
service of
persons
serving the
Union or a
State.

282. (1) Subject to the provisions of clause (2) of this article, Acts of the appropriate Legislature may regulate the recruitment and the conditions of service of persons appointed to public services, and to posts in connection with the affairs, of the Union or any State. 10

(2) No person who is a member of any civil service or holds any civil post in connection with the affairs of the Government of India or the Government of a State shall be dismissed, removed or reduced in rank until he has been given a reasonable opportunity of showing cause against the action proposed to be taken in regard to him: 15 20

Provided that this clause shall not apply—

- (a) where a person is dismissed, removed, or reduced in rank on the ground of conduct which has led to his conviction on a criminal charge; or 25
- (b) where an authority empowered to dismiss a person or remove him or reduce him in rank is satisfied that for some reason to be recorded by that authority in writing it is not reasonably practicable to give that person an opportunity of showing cause. 30

Transitional
provisions.

283. Until other provision is made in this behalf under this Constitution, any rules which were in force immediately before the commencement of this 35

* The Committee is of opinion that detailed provisions with regard to recruitment and conditions of service of persons in Defence services or serving the Union or a State in a civil capacity should not be included in the Constitution but should be left to be regulated by Acts of the appropriate Legislature.

Constitution and were applicable to any public service or any post which has continued to exist after the commencement of this Constitution as a service or post under the Union or a State shall continue in force so far as consistent with the provisions of this 5 Constitution.

CHAPTER II—Public Service Commissions

Public
Service Com-
missions for
the Union
and for the
States.

284. (1) Subject to the provisions of this article there shall be a Public Service Commission for the 10 Union and a Public Service Commission for each State.

(2) Two or more States may agree—

(a) that there shall be one Public Service Com-
mission for that group of States; or 15

(b) that the Public Service Commission for one
of the States shall serve the needs of all
the States;

and any such agreement may contain such incidental and consequential provisions as may appear neces- 20 sary or desirable for giving effect to the purposes of the agreement and shall, in the case of an agreement that there shall be one Commission for a group of States, specify by what Governor or Governors the functions which are under this Part of this Constitu- 25 tion to be discharged by the Governor of a State are to be discharged.

(3) The Public Service Commission for the Union if requested so to do by the Governor of a State may, with the approval of the President, agree to serve 30 all or any of the needs of the State.

(4) References in this Constitution to the Union Public Service Commission or a State Public Service Commission shall, unless the context otherwise requires, be construed as references to the Commis- 35 sion serving the needs of the Union, or, as the case may be, the State as respects the particular matter in question.

Composition
and staff of
Commissions.

285. (1) The Chairman and other members of a Public Service Commission shall be appointed, in the case of the Union Commission, by the President, and in the case of a State Commission, by the Governor of the State in his discretion: 5

Provided that at least one-half of the members of every Public Service Commission shall be persons who at the dates of their respective appointments have held office for at least ten years either under the Government of India or under the Government of a State and in computing the said period of ten years any period before the commencement of this Constitution during which a person has held office under the Crown shall be included. 10

(2) In the case of the Union Commission, the President and, in the case of a State Commission, the Governor of the State in his discretion, may by regulations— 15

(a) determine the number of members of the Commission, their tenure of office and their conditions of service; and 20

(b) make provision with respect to the number of members of the staff of the Commission and their conditions of service.

(3) On ceasing to hold office— 25

(a) the Chairman of the Union Commission shall be ineligible for further employment either under the Government of India or under the Government of a State;

(b) the Chairman of a State Commission shall be eligible for appointment as the Chairman or a member of the Union Commission or as the Chairman of another State Commission, but not for any other employment either under the Government of India or under the Government of a State; 30

(c) no other member of the Union or of any State Commission shall be eligible for any other appointment either under the Government of India or the Government of a State without the approval, in the case of an appointment in connection with the 40

affairs of a State, of the Governor of the State and, in the case of any other appointment, of the President.

Functions
of Public
Service Com-
missions.

286. (1) It shall be the duty of the Union and the State Public Service Commissions to conduct examinations for appointments to the services of the Union and the services of the State respectively.

(2) It shall also be the duty of the Union Public Service Commission, if requested by any two or more States so to do, to assist those States in framing and operating schemes of joint recruitment for any services for which candidates possessing special qualifications are required.

(3) The President as respects the All India Services and also as respects other services and posts in connection with the affairs of the Union, and the Governor as respects other services and posts in connection with the affairs of a State, may make regulations specifying the matters in which either generally, or in any particular class of case or in any particular circumstances, it shall not be necessary for a Public Service Commission to be consulted, but, subject to regulations so made and to the provisions of the next succeeding clause, the Union Commission or, as the case may be, the State Commission shall be consulted—

- (a) on all matters relating to methods of recruitment to civil services and for civil posts;
- (b) on the principles to be followed in making appointments to civil services and posts and in making promotions and transfers from one service to another and on the suitability of candidates for such appointments, promotions or transfers;
- (c) on all disciplinary matters affecting a person serving under the Government of India or the Government of a State in a civil capacity, including memorials or petitions relating to such matters;
- (d) on any claim by or in respect of a person who is serving or has served under the Government of India or the Government of a State or under the Crown, in a civil capacity that any costs incurred by him

in defending legal proceedings instituted against him in respect of acts done or purporting to be done in the execution of his duty should be paid out of the revenues of India or, as the case may be, the State; 5

- (e) on any claim for the award of a pension in respect of injuries sustained by a person while serving under the Government of India or the Government of a State or 10 under the Crown in a civil capacity, and any question as to the amount of any such award,

and it shall be the duty of a Public Service Commission to advise on any matter so referred to them and 15 on any other matter which the President or, as the case may be, the Governor may refer to them.

(4) Nothing in this article shall require a Public Service Commission to be consulted as respects the manner in which appointments and posts are to be 20 allocated as between the various communities in the Union or a State.

Power to
extend func-
tions of
Public
Service Com-
missions.

287. Subject to the provisions of this article, an Act made by Parliament or by the Legislature of the State may provide for the exercise of additional 25 functions by the Union Public Service Commission, or, as the case may be, by the State Public Service Commission:

Provided that where the Act is made by the Legislature of a State, it shall be a term of such 30 Act that the functions conferred by it shall not be exercisable in relation to any person who is not a member of one of the services of the State except with the consent of the President.

Expenses
of Public
Service
Commissions.

288. The expenses of the Union or a State Public 35 Service Commission, including any salaries, allowances and pensions payable to or in respect of the members or staff of the Commission, shall be charged on the revenues of India or, as the case may be, the State. 40

PART XIII

Elections

Superintend-
ence, direc-
tion and
control of
elections to
be vested
in an
Election
Commission.

289. (1) The superintendence, direction and control of all elections to Parliament and of elections to the offices of President and Vice-President held under this Constitution, including the appointment of election tribunals for the decision of doubts and disputes arising out of or in connection with the elections to Parliament, shall be vested in a Commission to be appointed by the President. 5 10

(2) The superintendence, direction and control of all elections to the Legislature of a State for the time being specified in Part I of the First Schedule and of elections to the office of Governor of the State *elections to constitute a panel for the purpose of the appointment of a Governor of the State held under this Constitution including the appointment of election tribunals for the decision of doubts and disputes arising out of or in connection with elections to the Legislature of such State shall be vested in a Commission to be appointed by the Governor of the State.** 15 20

Elections to
Parliament.

290. Subject to the provisions of this Constitution, Parliament may, from time to time, by law, make provision with respect to all matters relating to or in connection with elections to either House of Parliament including matters necessary for securing the due constitution of the two Houses of Parliament and the delimitation of constituencies. 25

Elections to
the Legis-
latures of
States.

291. Subject to the provisions of this Constitution, the Legislature of a State for the time being specified in Part I of the First Schedule may, from time to time, by law, make provision with respect to all matters relating to or in connection with elections to the House or Houses of the Legislature of the State including matters necessary for securing the due constitution of such House or Houses and the delimitation of constituencies. 30 35

* The words "elections to constitute a panel for the purpose of the appointment of a Governor of the State" will have to be used in this clause in place of the words "elections to the office of Governor of the State" if the second alternative is adopted in article 131.

** The Committee is of opinion that the Election Commission to superintend, direct and control elections to the Legislature of a State in Part I of the First Schedule should be appointed by the Governor of the State.

PART XIV

Special Provisions Relating to Minorities

Reservation of seats for minorities in the House of the People.

292. Seats shall be reserved in the House of the People for— 5

(a) the Muslim community and the Scheduled Castes;

(b) the scheduled tribes in every State for the time being specified in Part I of the first Schedule; and 10

(c) the Indian Christian community in the States of Madras and Bombay, according to the scale prescribed in sub-clause (b) of clause (5) of article 67 of this Constitution.

Special provisions regarding the representation of the Anglo-Indian community in the House of the People.

293. Notwithstanding anything contained in article 67 of this Constitution, the President may, if he is of opinion that the Anglo-Indian community is not adequately represented in the House of the People, nominate not more than two members of the community to the House of the People. 15 20

Reservation of seats for minorities in the Legislative Assemblies of the States.

294. (1) Seats shall be reserved for—

(a) the Muslim community, the Scheduled Castes and the scheduled tribes (except the scheduled tribes in the autonomous districts of Assam) in the Legislative Assembly of every State for the time being specified in Part I of the First Schedule; and 25

(b) the Indian Christian community in the Legislative Assemblies of the States of Madras and Bombay, according to the scale prescribed in clause (3) of article 149 of this Constitution. 30

(2) Seats shall be reserved also for the autonomous districts in the Legislative Assembly of the State of Assam. 35

(3) The number of seats reserved for any community in the Legislative Assembly of any State for the time being specified in Part I of the First Schedule shall bear, as nearly as may be, the same proportion 40

to the total number of seats in that Assembly as the population of the community in the State bears to the total population of the State.

Explanation.—All the Scheduled Castes in a State shall be deemed to be a single community for the purposes of this clause and so also all the scheduled tribes in a State. 5

(4) The number of seats reserved for an autonomous district in the Legislative Assembly of the State of Assam shall bear to the total number of seats in that Assembly a proportion not less than the population of the district bears to the total population of the State. 10

(5) The constituencies for the seats reserved for any autonomous district of the State of Assam shall not comprise any area outside that district. 15

(6) No person who is not a member of a scheduled tribe of any autonomous district of the State of Assam shall be eligible for election to the Legislative Assembly of the State from any constituency of that district * [except from the constituency comprising the cantonment and municipality of Shillong]. 20

Special provisions regarding the representation of the Anglo-Indian community in the Legislative Assemblies of the States.

295. Notwithstanding anything contained in article 149 of this Constitution, the Governor of a State may, if he is of opinion that the Anglo-Indian community is not adequately represented in the Legislative Assembly of the State, nominate such number of members of the community to the Legislative Assembly as he considers appropriate. 25 30

Claims of minority communities to services and posts.

296. Subject to the provisions of the next succeeding article the claims of all minority communities shall be taken into consideration, consistently with the maintenance of efficiency of administration, in the making of appointments to services and posts in connection with the affairs of the Union or of a 35

* The words within square brackets should be deleted if the words 'excluding the town of Shillong' is retained in item 1 of Part I of the table appended to paragraph 19 of the Sixth Schedule to the Constitution.

State for the time being specified in Part I of the First Schedule.

Special provision for Anglo-Indian community in certain services.

297. (1) During the first two years after the commencement of this Constitution, appointments of members of the Anglo-Indian community to posts in the railway, customs, postal and telegraph services of the Union shall be made on the same basis as immediately before the fifteenth day of August 1947. 5

During every succeeding period of two years, the number of posts reserved for the members of the said community in the said services shall, as nearly as possible, be less by ten per cent than the numbers so reserved during the immediately preceding period of two years: 10

Provided that at the end of ten years from the 15 commencement of this Constitution all such reservations shall cease.

(2) Nothing in clause (1) shall bar the appointment of members of the Anglo-Indian community to posts other than, or in addition to, those reserved for the community under that clause if such members are found qualified for appointment on merit as compared with the members of other communities. 20

Special provision with respect to educational grants for the benefit of Anglo-Indian community.

298. During the first three financial years after the commencement of this Constitution, the same grants, if any, shall be made by the Union and by each State for the time being specified in Part I of the First Schedule for the benefit of the Anglo-Indian community in respect of education as were made in the financial year ending on the 31st day of March 1948. 25

During every succeeding period of three years the grants may be less by ten per cent than those for the immediately preceding period of three years:

Provided that at the end of ten years from the commencement of this Constitution, such grants, to the extent to which they are a special concession to the Anglo-Indian community, shall cease: 35

Provided further that no educational institution shall be entitled to receive any grant under this 40

article unless at least forty per cent of the annual admissions therein are made available to members of communities other than the Anglo-Indian community.

Special
Officers for
minorities
for the
Union and
the States.

299. (1) There shall be a Special Officer for mi- 5
norities for the Union who shall be appointed by the
President, and a Special Officer for minorities for
each State for the time being specified in Part I of
the First Schedule who shall be appointed by the
Governor of the State. 10

(2) It shall be the duty of the Special Officer for
the Union to investigate all matters relating to the
safeguards provided for minorities under this
Constitution in connection with the affairs of the
Union and to report to the President upon the work- 15
ing of the safeguards at such intervals as the
President may direct, and the President shall cause
all such reports to be laid before Parliament.

(3) It shall be the duty of the Special Officer for
a State so specified to investigate all matters relating 20
to the safeguards provided for minorities under this
Constitution in connection with the affairs of the
State and to report to the Governor of the State
upon the working of the safeguards at such intervals
as the Governor may direct and the Governor shall 25
cause all such reports to be laid before the Legisla-
ture of the State.

Control of the
Union over
the adminis-
tration of
scheduled
areas and
welfare of
scheduled
tribes in
States in
Part I of the
First
Schedule.

300. (1) The President may at any time and shall,
on the expiration of ten years from the commence-
ment of this Constitution, by order, appoint a Com- 30
mission to report on the administration of the
scheduled areas and the welfare of the scheduled
tribes in the States for the time being spe-
cified in Part I of the First Schedule.

The order may define the composition, powers and 35
procedure of the Commission and may contain such
incidental or ancillary provisions as the President
may consider necessary or desirable.

(2) The executive power of the Union shall extend
to the giving of directions to such a State as to the 40
drawing up and execution of schemes specified in the
direction to be essential for the welfare of the
scheduled tribes in the State.

Appointment
of a Com-
mission to
investigate
the condi-
tions of
backward
classes.

301. (1) The President may by order appoint a Commission consisting of such persons as he thinks fit to investigate the conditions of socially and educationally backward classes within the territory of India and the difficulties under which they labour 5 and to make recommendations as to the steps that should be taken by the Union or any State to remove such difficulties and to improve their condition and as to the grants that should be given for the purpose by the Union or any State and the conditions subject 10 to which such-grants should be given, and the order appointing such Commission shall define the procedure to be followed by the Commission.

(2) A Commission so appointed shall investigate the matters referred to them and present to the 15 President a report setting out the facts as found by them and making such recommendations as they think proper.

(3) The President shall cause a copy of the report so presented, together with a memorandum explain- 20 ing the action taken thereon to be laid before Parliament.

PART XV

Miscellaneous

Protection
of President
and
Governors.

302. (1) The President or the Governor of a State shall not be answerable to any court for the exercise and performance of the powers and duties of his office 5 or for any act done or purporting to be done by him in the exercise and performance of those powers and duties:

Provided that the conduct of the President may be brought under review by any court, tribunal or 10 body appointed or designated by either House of Parliament for the investigation of a charge under article 50 of this Constitution:

Provided further that nothing in this clause shall be construed as restricting the right of any person to 15 bring against the Government of India or the Government of a State such proceedings as are mentioned in Chapter III of Part X of this Constitution.

(2) No criminal proceedings whatsoever shall be instituted or continued against the President or the 20 Governor of a State in any court during his term of office.

(3) No process for the arrest or imprisonment of the President or the Governor of a State shall issue 25 from any court during his term of office.

(4) No civil proceedings in which relief is claimed against the President or the Governor of a State shall be instituted during his term of office in any court in respect of any act done or purporting to be done by him in his personal capacity, whether before or after 30 he entered upon his office as President or Governor of such State, until the expiration of two months next after notice in writing has been delivered to the President or the Governor, as the case may be, or left at his office stating the nature of the proceedings, 35 the cause of action therefor, the name, description and place of residence of the party by whom such proceedings are to be instituted and the relief which he claims.

Interpretation
etc.

303. (1) In this Constitution, unless the context 40 otherwise requires, the following expressions have the

meanings hereby respectively assigned to them, that is to say—

- (a) "agricultural income" means agricultural income as defined for the purposes of the enactments relating to Indian income-tax; 5
- (b) "an Anglo-Indian" means a person whose father or any of whose other male progenitors in the male line is or was of European descent but who is domiciled within the territory of India and is or was 10 born within such territory of parents habitually resident therein and not established there for temporary purposes only;
- (c) "an Indian Christian" means a person who professes any form of the Christian 15 religion and is not a European or an Anglo-Indian;
- (d) "borrow" includes the raising of money by the grant of annuities, and "loan" shall be construed accordingly; 20
- (e) "Chief Justice" includes in relation to a High Court a Chief Judge;
- (f) "corporation tax" means any tax on income, so far as that tax is payable by companies and is a tax in the case of which the 25 following conditions are fulfilled:—
 - (i) that it is not chargeable in respect of agricultural income;
 - (ii) that no deduction in respect of the tax paid by companies is, by any enact- 30 ments which may apply to the tax, authorised to be made from dividends payable by the companies to individuals;
 - (iii) that no provision exists for taking the tax 35 so paid into account in computing for the purposes of Indian income-tax the total income of individuals receiving such dividends, or in computing the Indian income-tax payable by, or 40 refundable to, such individuals;
- (g) "corresponding Province" or "corresponding State" means in cases of doubt such Province or State as may be determined

by the President to be the corresponding Province or, as the case may be, the corresponding State for the particular purpose in question:

- (h) "debt" includes any liability in respect of any obligation to repay capital sums by way of annuities and any liability under any guarantee, and "debt charges" shall be construed accordingly; 5
- (i) "existing law" means any law, Ordinance, order, bye-law, rule or regulation passed or made before the commencement of this Constitution by any legislature, authority or person having power to make such a law, Ordinance, order, bye-law, rule or regulation but does not include any Act of Parliament of the United Kingdom or any Order in Council made under any such Act; 15
- (j) "Federal Court" means the Federal Court constituted under the Government of India Act, 1935;
- (k) "goods" includes all materials, commodities, and articles;
- (l) "guarantee" includes any obligation undertaken before the commencement of this Constitution to make payments in the event of the profits of an undertaking falling short of a specified amount; 25
- (m) "pension" means a pension, whether contributory or not, of any kind whatsoever payable to or in respect of any person, and includes retired pay so payable, a gratuity so payable and any sum or sums so payable by way of the return, with or without interest thereon or any other addition thereto, of subscriptions to a provident fund; 30
- (n) "public notification" means a notification in the Gazette of India, or, as the case may be, the official Gazette of a State; 40
- (o) "securities" includes stock;

- (p) "taxation" includes the imposition of any tax or impost, whether general or local or special, and "tax" shall be construed accordingly;
- (q) "tax on income" includes a tax in the nature 5 of an excess profits tax;
- (r) "railway" includes a tramway not wholly within a municipal area;
- (s) "Union railway" does not include an Indian State railway but, save as aforesaid, 10 includes any railway not being a minor railway;
- (t) "Indian State railway" means a railway owned by a State for the time being specified in Part III of the First Schedule and 15 either operated by such State, or operated on behalf of such State otherwise than in accordance with a contract made with that State by or on behalf of the Government of India, or any company operating a 20 Union railway;
- (u) "minor railway" means a railway which is wholly situate in one State and does not form a continuous line of communication with a Union railway, whether of the 25 same gauge or not;
- (v) "Schedule" means a Schedule to this Constitution;
- (w) "Scheduled Castes" means in relation to any State for the time being specified in Part I 30 of the First Schedule such castes, races or tribes or parts of or groups within castes, races or tribes as are specified in the Government of India (Scheduled Castes) Order, 1936, to be scheduled castes for the 35 purposes of the Fifth and Sixth Schedules to the Government of India Act, 1935, in relation to the corresponding Province;
- (x) "scheduled tribes" means the tribes or communities specified in Parts I to IX of the 40 Eighth Schedule in relation to the States for the time being specified in Part I of the First Schedule to which those Parts respectively relate.

(2) Unless the context otherwise requires, the General Clauses Act, 1897 (X of 1897), shall apply for the interpretation of this Constitution.

(3) Any reference in this Constitution to Acts or laws of, or made by, Parliament or Acts or laws of, 5
or made by, the Legislature of a State for the time being specified in Part I of the First Schedule shall be construed as including a reference to an Ordinance made by the President or, as the case may be, to an Ordinance made by a Governor. 10

PART XVI

Amendment of the Constitution

Procedure
for
amendment
of the
Constitution.

304 (1) An amendment of the Constitution may be initiated by the introduction of a Bill for the purpose in either House of Parliament, and when the Bill is passed in each House by a majority of the total membership of that House and by a majority of not less than two-thirds of the members of that House present and voting, it shall be presented to the President for his assent and upon such assent being given to the Bill, the Constitution shall stand amended in accordance with the terms of the Bill: 5 10

Provided that if such amendment seeks to make any change in—

*(a) any of the Lists in the Seventh Schedule; 15

(b) the representation of States in Parliament; or

(c) the powers of the Supreme Court,
the amendment shall also require to be ratified by the Legislatures of not less than one-half of the States for the time being specified in Part I of the First Schedule and the Legislatures of not less than one-third of the States for the time being specified in Part III of that Schedule. 20

(2) Notwithstanding anything in the last preceding clause, an amendment of the Constitution seeking to make any change in the provisions of this Constitution relating to the *method of choosing a Governor or the number of Houses of the 25

*The Committee is of opinion that item (a) of the proviso to clause (1) of this article should contain reference to all the Lists in the Seventh Schedule.

**The Committee is also of opinion that provision should be included in this article for enabling the Legislature of a State in Part I of the First Schedule to initiate a Bill for the amendment of the provisions of this Constitution relating to the choosing of the Governor and the number of Houses of the Legislature in such State provided such Bill is passed by an absolute majority of the Legislature of such State and is thereafter ratified by Parliament by an absolute majority, and has added clause (2) to this article for the purpose.

*** The words "the method of choosing a Governor or" should be retained in this clause only if the second alternative in article 131 is not adopted.

Legislature in any State for the time being specified in Part I of the First Schedule may be initiated by the introduction of a Bill for the purpose in the Legislative Assembly of the State or, where the State has a Legislative Council, in either House of the Legislature of the State, and when the Bill is passed by the Legislative Assembly or, where the State has a Legislative Council, by both Houses of the Legislature of the State, by a majority of the total membership of the Assembly or each House, as the case may be, it shall be submitted to Parliament for ratification, and when it is ratified by each House of Parliament by a majority of the total membership of that House it shall be presented to the President for assent and upon such assent being given to the Bill, the Constitution shall stand amended in accordance with the terms of the Bill. 5 10 15

Explanation.—Where a group of States is for the time being specified in Part III of the First Schedule, the entire group shall be deemed to be a single State for the purposes of the proviso to clause (1) of this article. 20

Reservation of seats for minorities to remain in force for only ten years unless continued in operation by amendment of the Constitution.

305. Notwithstanding anything contained in article 304 of this Constitution, the provisions of this Constitution relating to the reservation of seats for the Muslims, the Scheduled Castes, the scheduled tribes or the Indian Christians either in Parliament or in the Legislature of any State for the time being specified in Part I of the First Schedule shall not be amended during a period of ten years from the commencement of this Constitution and shall cease to have effect on the expiration of that period unless continued in operation by an amendment of the Constitution. 25 30

PART XVII

Temporary and Transitional Provisions

Temporary power to Parliament to make laws with respect to certain matters in the State List as if they were matters in the Concurrent List.

*306. Notwithstanding anything in this Constitution, Parliament shall, during a period of five years ⁵ from the commencement of this Constitution, have power to make laws with respect to the following matters as if they were enumerated in the Concurrent List, namely:—

- (a) trade and commerce within a State in, and ¹⁰ the production, supply and distribution of, cotton and woollen textiles, paper (including newsprint), foodstuffs (including edible oil-seeds and oil), petroleum and petroleum products, spare parts of ¹⁵ mechanically propelled vehicles, coal, iron, steel and mica;
- (b) relief and rehabilitation of displaced persons;
- (c) offences against laws with respect to any of ²⁰ the matters mentioned in clauses (a) and (b) of this article, inquiries and statistics for the purposes of any of those matters, jurisdiction and powers of all courts except the Supreme Court with respect to ²⁵ any of those matters, and fees in respect of any of those matters but not including fees taken in any court;

but any law made by Parliament, which Parliament would not but for the provisions of this article have ³⁰ been competent to make, shall to the extent of the incompetency cease to have effect on the expiration

* The Committee is of opinion that in view of the present conditions regarding the production, supply and distribution of foodstuffs and certain other commodities and the special problem of the relief and rehabilitation of refugees, power should be provided for Parliament to make laws with respect to these matters for a period of five years, although normally these matters fall in the State List. Similar power was conferred for a limited period by the India (Central Government and Legislature) Act, 1946.

of the said period except as respects things done or omitted to be done before the expiration thereof.

Continuance
in force of
existing laws
and their
adaptation.

307. (1) Subject to the other provisions of this Constitution, all the law in force in the territory of India immediately before the commencement of this Constitution shall continue in force therein until altered or repealed or amended by a competent Legislature or other competent authority. 5

(2) The President may, by Order, provide that, as from such date as may be specified in the Order, any law in force in the territory of India or in any part of such territory shall, until repealed or amended by a competent Legislature or other competent authority, have effect subject to such adaptations and modifications, whether by way of repeal or amendment, as appear to him to be necessary or expedient for bringing the provisions of that law into accord with the provisions of this Constitution and any such adaptation or modification shall not be questioned in any court of law. 15 20

Explanation I.—The expression “law in force” in this article shall include a law passed or made by a Legislature or other competent authority in the territory of India before the commencement of this Constitution and not previously repealed, notwithstanding that it or parts of it may not be then in operation either at all or in particular areas. 25

Explanation II.—Any law passed or made by a Legislature or other competent authority in the territory of India which immediately before the commencement of this Constitution has extra territorial effect as well as effect in the territory of India shall, subject to any such adaptations and modifications as aforesaid, continue to have extra-territorial effect. 30 35

Explanation III.—Nothing in this article shall be construed as continuing any temporary Act in force beyond the date fixed for its expiration.

Judges of the Federal Court to become judges of the Supreme Court and proceedings pending in the Federal Court or before His Majesty in Council to be transferred to the Supreme Court.

308. (1) The judges of the Federal Court holding office immediately before the date of commencement of this Constitution shall, unless they have elected otherwise, become on that date the judges of the Supreme Court and shall thereupon be entitled to 5 such salaries and allowances and to such rights in respect of leave and pensions as are provided for under article 104 of this Constitution in respect of the judges of the Supreme Court.

(2) All suits, appeals and proceedings, civil or 10 criminal, pending in the Federal Court at the commencement of this Constitution shall stand removed to the Supreme Court, and the Supreme Court shall have jurisdiction to hear and determine the same and the judgments and orders of the 15 Federal Court delivered or made before the commencement of this Constitution shall have the same force and effect as if they had been delivered or made by the Supreme Court.

*(3) On and from the date of commencement of 20 this Constitution the jurisdiction of His Majesty in Council to entertain and dispose of appeals and petitions from or in respect of any decree or order of any court within the territory of India including the jurisdiction in respect of criminal matters 25 exercisable by His Majesty by virtue of His Majesty's prerogative shall cease, and all appeals and other proceedings pending before His Majesty in Council on the said date shall be transferred to, and disposed of, by the Supreme Court. 30

(4) Further provision may be made by Parliament by law to give effect to the provisions of this article.

*The Committee thinks that all appeals and other proceedings pending before His Majesty-in-Council shall be finally disposed of by the time the Constitution comes into operation. If, however, some appeals or other proceedings remain pending before His Majesty-in-Council at the time of the commencement of the Constitution and any difficulty is experienced with regard to their transfer to, or disposal by, the Supreme Court, the President may pass necessary orders under the "removal of difficulties" clause (article 313).

Courts, authorities and officers to continue to function after the commencement of this Constitution subject to the provisions thereof.

309. All courts of civil, criminal and revenue jurisdiction, all authorities and all officers, judicial, executive and ministerial, throughout the territory of India shall continue to exercise their respective functions subject to the provisions of this Constitution. 5

Provisions as to judges of High Courts.

310. The judges of a High Court in any Province holding office immediately before the date of commencement of this Constitution shall, unless they have elected otherwise, become on that date the judges of the High Court in the corresponding State, and shall thereupon be entitled to such salaries and allowances and to such rights in respect of leave and pensions as are provided for under article 197 of this Constitution in respect of the judges of such High Court. 10 15

Provisions as to provisional Legislature of the Union, President, etc.

311. (1) Until both Houses of Parliament have been duly constituted and summoned to meet for the first session under this Constitution, the Constituent Assembly of the Dominion of India shall itself exercise all the powers and perform all the duties conferred on Parliament and may in particular make law for securing the due constitution of the two Houses of Parliament and for providing for all matters relating to or connected with elections to either House of Parliament including the delimitation of constituencies and for such other ancillary and consequential matters as may be deemed necessary for the purpose of giving effect to the provisions of this Constitution. 20 25 30

Explanation:—For the purposes of this clause, the Constituent Assembly of the Dominion of India includes members chosen to fill casual vacancies in that Assembly in accordance with rules made in that behalf by the Assembly, but shall not include any members representing any territory not included in the First Schedule. 35

(2) The Speaker of the Constituent Assembly when functioning as the Dominion Legislature under the Government of India Act, 1935, shall 40

continue to be the Speaker of such Assembly functioning under clause (1) of this article.

*(3) Such person as the Constituent Assembly of the Dominion of India shall have elected in this behalf shall be the provisional President of India until a President has been elected in accordance with the provisions contained in Chapter I of Part V of this Constitution and has entered upon his office. 5

(4) All persons holding office as ministers for 10 the Dominion of India immediately before the commencement of this Constitution shall after such commencement become members of the Council of ministers of the provisional President under this Constitution. 15

Provisions
as to pro-
visional Legis-
lature,
Governor,
etc. in each
State in Part
I of the First
Schedule.

312. (1) Until the House or Houses of the Legislature of each State for the time being specified in Part I of the First Schedule has or have been duly constituted and summoned to meet for the first session under the provisions of this Constitution, 20 the House or Houses of the Legislature of the corresponding Province functioning immediately before the commencement of this Constitution shall exercise the powers and perform the duties conferred by the provisions of this Constitution on the House 25 or Houses of the Legislature of such State.

(2) Any person holding office as Speaker of the Legislative Assembly or President of the Legislative Council of a Province immediately before the commencement of this Constitution shall after such commencement be the Speaker of the Legislative Assembly or the Chairman of the Legislative Council, as the case may be, of the corresponding State for the time being specified in Part I of the First Schedule while such Assembly or Council func- 35 tions under clause (1) of this article.

*Two members of the Committee, the Honourable Dr. B.R. Ambedkar and Shri Alladi Krishnaswami Ayyar, are of opinion that for clause (3) of article 311, the following clause should be substituted:—

“(3) The President of the Constituent Assembly of India shall become the provisional President of India until a President has been elected in accordance with the provisions contained in Chapter I of Part V of this Constitution and has entered upon his office”.

(3) Any person holding office as Governor in any Province immediately before the commencement of this Constitution shall after such commencement be the provisional Governor of the corresponding State for the time being specified in Part I of the First Schedule until a new Governor has been elected/appointed* in accordance with the provisions of Chapter II of Part VI of this Constitution and has entered upon his office. 5

(4) All persons holding office as ministers in a Province immediately before the commencement of this Constitution shall after such commencement become members of the Council of ministers of the provisional Governor of the corresponding State for the time being specified in Part I of the First Schedule. 15

Power of the
President to
remove
difficulties.

313. (1) Subject to the provisions of clause (1) of article 311 of this Constitution, the President may, for the purpose of removing any difficulties, particularly in relation to the transition from the provisions of the Government of India Act, 1935, to the provisions of this Constitution, by Order, direct that this Constitution shall, during such period as may be specified in the Order, have effect subject to such adaptations, whether by way of variation, addition, or repeal, as he may deem to be necessary or expedient: 20 25

Provided that no such order shall be made after the first meeting of Parliament duly constituted under Chapter II of Part V of this Constitution. 30

(2) Every order made under clause (1) of this article shall be laid before each House of Parliament.

*If the second alternative is adopted in article 131, the word "appointed" will have to be used in this clause instead of the word "elected".

PART XVIII

Commencement and Repeals.

Commence-
ment.

314. This Constitution shall come into force on
... ..

Repeals.

315. The Indian Independence Act, 1947, and 5
the Government of India Act, 1935, including the
India (Central Government and Legislature) Act,
1946, and all other enactments amending or supple-
menting the Government of India Act, 1935, shall
cease to have effect. 10

FIRST SCHEDULE

[Articles 1 and 4]

THE STATES AND THE TERRITORIES OF INDIA

*Part I

The territories known immediately before the commencement of this Constitution as the Governors' Provinces of— 5

1. Madras,
 2. Bombay,
 3. West Bengal,
 4. The United Provinces,
 5. Bihar,
 6. East Punjab,
 7. The Central Provinces and Berar,
 8. Assam,
 9. Orissa.
- 10
15

Part II

The territories known immediately before the commencement of this Constitution as the Chief Commissioners' Provinces of—

1. Delhi,
 2. Ajmer-Merwara including Panth Piploda,
 3. Coorg.
- 20

*The Committee has anxiously considered the question whether Andhra should be specifically mentioned as a separate State in this Schedule. There was recently a statement by the Government on this subject, in which it was said that Andhra could be included among the Provinces in the Constitution as was done in the case of Orissa and Sind under the Government of India Act, 1935. Accordingly the Committee was at one stage inclined to mention Andhra as a distinct State in the Schedule. On fuller consideration, however, the Committee feels that the bare mention of the State in the Schedule will not suffice to bring it into being from the commencement of the new Constitution. Preparatory steps will have to be taken immediately under the present Constitution in order that the new State, with all the machinery of government, may be in being from the commencement of the new Constitution. This was what was done in the case of Orissa and Sind under the Act of 1935: they were made into separate Provinces with effect from April 1, 1936, while the Act came into operation on April 1, 1937. The Committee therefore recommends that a Commission should be appointed to work out or inquire into all relevant matters not only as regards Andhra but also as regards other linguistic regions, with instructions to submit its report in time to enable any new States whose formation it may recommend to be created under section 290 of the Act of 1935 and to be mentioned in this Schedule before the Constitution is finally adopted.

Part III

DIVISION A

The following Indian States—

| | |
|--------------------------------|----|
| 1. Mysore, | |
| 2. Kashmir, | 5 |
| 3. Gwalior, | |
| 4. Baroda, | |
| 5. Travancore, | |
| 6. Cochin, | |
| 7. Udaipur, | 10 |
| 8. Jaipur. | |
| 9. Jodhpur, | |
| 10. Bikaner, | |
| 11. Alwar, | |
| 12. Kotah, | 15 |
| 13. Indore, | |
| 14. Bhopal, | |
| 15. Rewa, | |
| 16. Kolhapur, | |
| 17. Patiala, | 20 |
| 18. Mayurbhanj, | |
| 19. United State of Kathiawar. | |

DIVISION B*

All other Indian States which were within the Dominion of India immediately before the commencement of this 25 Constitution.

Part IV

The Andaman and Nicobar Islands.

* It is not possible to enumerate each of the States because owing to mergers of various kinds many of the States may disappear in larger units. It will be necessary however to enumerate all the States by name before the Constitution is finally adopted.

SECOND SCHEDULE

[Articles 48 (3), 62 (6), 79, 104, 124 (2), 135 (3),
145 (5), 163 and 197]

Part I

PROVISIONS AS TO THE PRESIDENT AND THE GOVERNORS OF STATES FOR THE TIME BEING SPECIFIED IN PART I OF THE FIRST SCHEDULE 5

1. There shall be paid to the President and to the Governors of the States for the time being specified in Part I of the First Schedule the following emoluments per mensem, 10 that is to say:—

| | | |
|-------------------------|-----|---------------|
| The President | ... | 5,500 rupees. |
| The Governor of a State | ... | 4,500 rupees. |

2. There shall be also paid to the President and to the Governors the following allowances per mensem during their 15 respective terms of offices to enable them to discharge conveniently and with dignity the duties of their respective offices, that is to say:—

| | | |
|-------------------------|-----|--|
| The President | ... | _____rupees. |
| The Governor of a State | ... | _____rupees. 20 |

3. There shall be paid to the President and a Governor an allowance equal to the actual expenses respectively incurred by them in travelling with their families, if any, and their and their families' effects to take up the appointment of the President or Governor as the case may be. 25

4. The President and each Governor throughout their respective terms of office shall be entitled without payment of rent or hire to the use of the official residences and of the railway saloons, river craft, air craft and motor cars provided for their respective use and no charge shall fall on 30 them personally in respect of the maintenance thereof.

5. While the Vice-President or any other person is discharging the functions of the, or is acting as, President, or any person is discharging the functions of the Governor, he shall be entitled to the same emolument and allowance under 35 paragraphs 1 and 2 of this Schedule as the President or the Governor whose functions he discharges or for whom he acts, as the case may be, and during the period he so discharges the functions or acts, the provisions of paragraph 4 of this Schedule shall apply to him, but the provisions of 40 paragraph 3 thereof shall not apply to him.

Part II

PROVISIONS AS TO THE MINISTERS FOR THE UNION AND FOR THE STATES IN PART I OF THE FIRST SCHEDULE

6. There shall be paid to the Prime Minister and to each 5 of the other Ministers for the Union such salaries and allowances as were payable respectively to the Prime Minister and to each of the other Ministers for the Dominion immediately before the commencement of this Constitution.

7. There shall be paid to the Ministers for any State for 10 the time being specified in Part I of the First Schedule such salaries and allowances as were payable to such Ministers for the corresponding Province immediately before the commencement of this Constitution.

Part III

15

PROVISIONS AS TO THE SPEAKER AND THE DEPUTY SPEAKER OF THE HOUSE OF THE PEOPLE, AND THE CHAIRMAN AND THE DEPUTY CHAIRMAN OF THE COUNCIL OF STATES AND THE SPEAKER AND THE DEPUTY SPEAKER OF THE LEGISLATIVE ASSEMBLIES OF STATES IN PART I OF THE FIRST SCHEDULE AND THE CHAIRMAN AND THE DEPUTY CHAIRMAN OF THE LEGISLATIVE COUNCILS OF SUCH STATES

20

25

8. There shall be paid to the Speaker of the House of the People and the Chairman of the Council of States such salaries and allowances as were payable to the Speaker of the Constituent Assembly of the Dominion of India immediately before the commencement of this Constitution, and there shall 30 be paid to the Deputy Speaker of the House of the People and to the Deputy Chairman of the Council of States such salaries and allowances as were payable respectively to the Deputy President of the Legislative Assembly and to the Deputy President of the Council of State immediately before the 35 fifteenth day of August, 1947.

9. There shall be paid to the Speaker and the Deputy Speaker of the Legislative Assembly of a State for the time being specified in Part I of the First Schedule and to

the Chairman and the Deputy Chairman of the Legislative Council of such State such salaries and allowances as were payable respectively to the Speaker and the Deputy Speaker of the Legislative Assembly and the President and the Deputy President of the Legislative Council of the corresponding Province immediately before the commencement of this Constitution and where the corresponding Province had no Legislative Council immediately before such commencement there shall be paid to the Chairman and the Deputy Chairman of the Legislative Council of the State such salaries and allowances as the Governor of the State may determine.

Part IV

PROVISIONS AS TO THE JUDGES OF THE SUPREME COURT AND OF THE HIGH COURTS

10. There shall be paid to the judges of the Supreme Court and of each High Court within the territory of India except the States for the time being specified in Part III of the First Schedule in respect of time spent on actual service salary at the following rates per mensem, that is to say:—

| | |
|--------------------------------------|--------------------|
| Chief Justice of the Supreme Court | . 5,000 rupees: 20 |
| Any other judge of the Supreme Court | . 4,500 rupees: |
| Chief Justice of a High Court | . 4,000 rupees: |
| Any other judge of a High Court | . 3,500 rupees: |

Provided that if a judge of the Supreme Court at the time of his appointment is in receipt of a pension (other than a disability or wound pension) in respect of any previous service under the Government of India or any of its predecessor Governments or under the Government of a State for the time being specified in Part I of the First Schedule or any of its predecessor Governments, his salary in respect of service in the Supreme Court shall be reduced by the amount of that pension.

11. The Chief Justice or any other judge of the Supreme Court or a Chief Justice or any other judge of a High Court within the territory of India except the States for the time being specified in Part III of the First Schedule shall receive such reasonable allowances to reimburse him for expenses incurred in travelling on duty within the territory of India and shall be afforded such reasonable facilities in connection with travelling as the President in the case of the Chief

Justice or any other judge of the Supreme Court, or the Governor of the State in the case of the Chief Justice or any other judge of such High Court, may from time to time prescribe.

12. (1) The rights in respect of leave of absence or pension of the Chief Justice or any other judge of the Supreme Court shall be governed or shall continue to be governed, as the case may be, by the provisions which were applicable to any such judge of the Federal Court. 5

(2) The rights in respect of leave of absence or pension of the Chief Justice or any other judge of a High Court within the territory of India except the States for the time being specified in Part III of the First Schedule shall be governed or shall continue to be governed, as the case may be, by the same provisions which were applicable immediately before the commencement of this Constitution to any such judge of such High Court. 10 15

(3) For the purposes of this paragraph, a person who was serving as an ad hoc judge, acting judge or additional judge at the commencement of this Constitution shall be deemed to have been serving as a judge at that date if, but only if, his service as such ad hoc judge, acting judge or additional judge continued without interruption until his subsequent permanent appointment as a judge. 20

13. In this Part, unless the context otherwise requires,— 25

(a) the expression “Chief Justice” includes an acting Chief Justice, and a “judge” includes an ad hoc judge, an acting judge and an additional judge;

(b) “actual service” includes—

(i) time spent by a judge on duty as a judge or in the performance of such other functions as he may be directed by the President or the Governor, as the case may be, or by the Commission appointed under Article 289 of this Constitution to discharge; 30 35

(ii) vacations, excluding any time during which the judge is absent on leave; and

(iii) joining time on transfer from a High Court to the Supreme Court or from one High Court to another. 40

Part V**PROVISIONS AS TO THE AUDITOR-GENERAL
OF INDIA**

14. There shall be paid to the Auditor-General of India a salary at the rate of four thousand rupees per mensem. 5

15. The rights in respect of leave of absence or pension of the Auditor-General of India shall be governed or shall continue to be governed, as the case may be, by the provisions which were applicable to the Auditor-General of India immediately before the commencement of this Constitution 10 and all references in those provisions to the Governor-General shall be construed as references to the President.

THIRD SCHEDULE

[Articles 62 (4), 81, 103 (6), 144 (2), 165 and 195]

FORMS OF DECLARATIONS

I

Form of oath of office for a Minister for the Union:—

5

“I, A.B., do solemnly affirm (or swear) that I will bear true faith and allegiance to the Constitution of India as by law established, that I will faithfully and conscientiously discharge my duties as a Minister for the Union and that I will do right to all manner of people in accordance with the Constitution and the law, without fear or favour, affection or illwill.”

II

Form of oath of secrecy for a Minister for the Union:—

“I, A.B., do solemnly affirm (or swear) that I will not directly or indirectly communicate or reveal to any person or persons any matter which shall be brought under my consideration or shall become known to me as a Minister for the Union except as may be required for the due discharge of my duties as such Minister.”

20

III

Form of declaration to be made by a member of Parliament:—

“I, A.B., having been elected (or nominated) a member of the Council of States (or the House of the People) do solemnly and sincerely promise and declare that I will bear true faith and allegiance to the Constitution of India as by law established and that I will faithfully discharge the duty upon which I am about to enter.”

25

IV

Form of declaration to be made by the judges of the Supreme Court:—

“I, A.B., having been appointed Chief Justice (or a judge) of the Supreme Court of India do solemnly and sincerely promise and declare that I will bear true faith and allegiance to the Constitution of India as by law established, that I will duly and faithfully - and to the best of my ability, knowledge and judgment perform the duties of my office without fear or favour, affection or illwill and that I will uphold the Constitution and the laws.”

35

V

Form of oath of office for a Minister for a State for the time being specified in Part I of the First Schedule:—

“I, A.B., do solemnly affirm (or swear) that I will bear true faith and allegiance to the Constitution of India as by law established, that I will faithfully and conscientiously discharge my duties as a Minister for the State of— and that I will do right to all manner of people in accordance with the Constitution and the law without fear or favour, affection or illwill.” 10

VI

Form of oath of secrecy for a Minister for a State for the time being specified in Part I of the First Schedule:—

“I, A.B., do solemnly affirm (or swear) that I will not directly or indirectly communicate or reveal to any person or persons any matter which shall be brought under my consideration or shall become known to me as a Minister of— except as may be required for the due discharge of my duties as such Minister or as may be specially permitted by the Governor in the case of any matter pertaining to the functions to be exercised by him in his discretion.” 20

VII

Form of declaration to be made by a member of the Legislature of a State for the time being specified in Part I of the First Schedule:— 25

“I, A.B., having been elected (or nominated) a member of the Legislative Assembly (or Legislative Council), do solemnly and sincerely promise and declare that I will bear true faith and allegiance to the Constitution of India as by law established and that I will faithfully discharge the duty upon which I am about to enter.” 30

VIII

Form of declaration to be made by the judges of a High Court:— 35

“I, A. B., having been appointed Chief Justice (or a judge) of the High Court at (or of)—do solemnly and sincerely promise and declare that I will bear true faith and allegiance to the Constitution of India as by law established, that I will duly and faithfully and to the best of my ability, knowledge and judgment perform the duties of my office without fear or favour, affection or illwill and that I will uphold the Constitution and the laws.” 40

FOURTH SCHEDULE

[Article 144 (4)]

INSTRUCTIONS TO THE GOVERNORS OF STATES IN PART I OF THE FIRST SCHEDULE

1. In these instructions, unless the context otherwise requires, the term "Governor" shall include every person for the time being discharging the functions of the Governor according to the provisions of this Constitution. 5

2. In making appointments to his Council of ministers the Governor shall use his best endeavours to select his ministers in the following manner, that is to say, to appoint in consultation with the person who in his judgment is most likely to command a stable majority in the Legislature those persons (including so far as practicable members of important minority communities) who will best be in a position collectively to command the confidence of the Legislature. In so acting, he shall bear constantly in mind the need for fostering a sense of joint responsibility among the ministers. 10 15

3. In all matters within the scope of the executive power of the State, save in relation to functions which he is required by or under this Constitution to exercise in his discretion, the Governor shall, in the exercise of the powers conferred upon him, be guided by the advice of his ministers. 20

4. The Governor shall do all that in him lies to maintain standards of good administration, to promote all measures making for moral, social and economic welfare and tending to fit all classes of the population to take their due share in the public life and government of the State, and to secure amongst all classes and creeds co-operation, goodwill and mutual respect for religious beliefs and sentiments. 25 30

FIFTH SCHEDULE

[Articles 189 (a) and 190 (1)]

PROVISIONS AS TO THE ADMINISTRATION AND CONTROL OF SCHEDULED AREAS AND SCHEDULED TRIBES

5

Part I

GENERAL

1. Executive power of a State in scheduled areas.—Subject to the provisions of this Schedule the executive power of a State for the time being specified in Part I of the First Schedule extends to the scheduled areas therein. 10

2. Report by the Governor to the Government of India regarding the administration of the scheduled areas.—The Governor of each State having scheduled areas therein shall annually, or whenever so required by the Government of India, make a report to that Government regarding the administration of the scheduled areas in that State and the executive power of the Union shall extend to the giving of directions to the State as to the administration of the said areas. 15

Part II

20

PROVISIONS AS TO THE STATES OF MADRAS, BOMBAY, WEST BENGAL, BIHAR, THE CENTRAL PROVINCES AND BERAR, AND ORISSA.

3. Application of Part II.—The provisions of this Part shall apply to the States of Madras, Bombay, West Bengal, Bihar, the Central Provinces and Berar, and Orissa. 25

4. Tribes Advisory Council.—(1) As soon as may be after the commencement of this Constitution, there shall be established in the States of Madras, Bombay, West Bengal, Bihar, the Central Provinces and Berar, and Orissa, a Tribes Advisory Council consisting of not less than ten and more than twenty-five members, of whom, as nearly as may be, three-fourths shall be elected representatives of the scheduled tribes in the Legislative Assembly of the State. 35

(2) It shall be the duty of the Tribes Advisory Council generally to advise the Government of the State on all matters pertaining to the administration of the scheduled areas, if any, and the welfare of the scheduled tribes in the State.

(3) The Governor may make rules prescribing or regulating 5
as the case may be—

(a) the number of members of the Council, the mode of their appointment and of the appointment of its Chairman and of the officers and servants thereof;

(b) the conduct of its meetings and its procedure in 10
general;

(c) its relations with officials and local bodies in the State; and

(d) all other incidental matters.

5. Law applicable to scheduled areas.—(1) The Governor 15
may, if so advised by the Tribes Advisory Council for the State, by public notification direct that any particular Act of Parliament or of the Legislature of the State shall not apply to a scheduled area or any part thereof in the State or shall apply to a scheduled area or any part thereof in the State 20
subject to such exceptions and modifications as he may with the approval of the said Council specify in the notification:

Provided that where such Act relates to any of the following subjects, that is to say—

(a) marriage; 25

(b) inheritance of property;

(c) social customs of the tribes;

(d) land, other than lands which are reserved forest under the Indian Forest Act, 1927 or under any other law for the time being in force in the area in 30
question, including rights of tenants, allotment of land and reservation of land for any purpose;

(e) any matter relating to village administration including the establishment of village panchayats,

the Governor shall issue such direction when so advised by the 35
Tribes Advisory Council.

(2) The Governor may, after consultation with the Tribes Advisory Council for the State, make Regulations for any scheduled area in the State with respect to any matter not provided for by any law for the time being in force in such 40
area.

(3) The Governor may also make regulations for any scheduled area in the State with respect to the trial of cases relating to offences other than those which are punishable with:

death, transportation for life or imprisonment for five years or upwards or relating to disputes other than those arising out of any such laws as may be defined in such regulations, and may by such regulations empower the headmen or panchayats in any such area to try such cases. 5

(4) Any regulations made under this paragraph when promulgated by the Governor shall have the same force and effect as any Act of the appropriate Legislature which applies to such area and has been enacted by virtue of the powers conferred on that Legislature by this Constitution. 10

6. Alienation and allotment of lands to non-tribals in scheduled areas.—(1) It shall not be lawful for a member of the scheduled tribes to transfer any land in a scheduled area to any person who is not a member of the scheduled tribes; 15

(2) No land in a scheduled area vested in the State within which such area is situate shall be allotted to, or settled with, any person who is not a member of the scheduled tribes except in accordance with rules made in that behalf by the Governor in consultation with the Tribes Advisory Council for the State. 20

7. Regulation of money-lending in scheduled areas.—The Governor may, and if so advised by the Tribes Advisory Council for the State shall, by public notification direct that no person shall carry on business as a money-lender in a scheduled area in the State except under or in accordance with the conditions of a licence issued by an officer authorised in this behalf by the Government of the State and every such direction shall provide that a breach of it shall be an offence, and shall specify the penalty with which it shall be punishable. 25 30

8. Estimated receipts and expenditure pertaining to scheduled areas to be shown separately in the annual financial statement.—The estimated receipts and expenditure pertaining to a scheduled area in a State which are to be credited to, or is to be met from, the revenues of the State shall be shown separately in the annual financial statement of the State to be laid before the Legislature of the State under article 177 of this Constitution. 35

9. Application of Part II to areas other than Scheduled areas.—(1) The Governor may, at any time by public notification, direct that all or any of the provisions of this Part 40

shall on and from such date as may be specified in the notification apply in relation to any area in the State inhabited by members of any scheduled tribe other than a scheduled area as they apply in relation to a scheduled area in the State, and the publication of such notification shall be conclusive evidence that such provisions have been duly applied in relation to such other area. 5

(2) The Governor may by a like notification direct that all or any of the provisions of this Part shall on and from such date as may be specified in the notification cease to apply in relation to any area in the State in respect of which a notification may have been issued under sub-paragraph (1) of this paragraph. 10

Part III

PROVISIONS AS TO THE STATE OF THE UNITED PROVINCES

15

10. Application of Part III.—The provisions of this Part shall apply only to the State of the United Provinces.

11. Scheduled Areas Advisory Committee.—(1) As soon as may be after the commencement of this Constitution the Governor shall by order appoint for the State a Scheduled Areas Advisory Committee, two-thirds of the members of which shall be the members of the Scheduled tribes. Such order may define the composition, powers and procedure of the Committee and may contain such incidental or ancillary provisions as the Governor may consider necessary or desirable. 20 25

(2) It shall be the duty of the Scheduled Areas Advisory Committee generally to advise the Government of the State on all matters pertaining to the development of scheduled areas in the State. 30

12. Power of Governor to make regulations in certain cases.—(1) The Governor may make regulations for any scheduled area in the State with respect to the trial of cases relating to offences other than those which are punishable with death, transportation for life or imprisonment for five years or upwards or for the trial of such classes of suits or cases of small pecuniary value as may be specified in such regulations, and may also by such regulations empower the headmen or panchayats in any such area to try such cases or suits. 35 40

(2) The Governor may also make regulations so as to prohibit the transfer of any land in a scheduled area in the State by a member of the scheduled tribes to any person who is not a member of the scheduled tribes.

(3) Any regulations made under this paragraph when promulgated by the Governor shall have the same force and effect as any Act of the appropriate Legislature which applies to such area and has been enacted by virtue of the powers conferred on that Legislature by this Constitution. 5

13. Estimated receipts and expenditure pertaining to 10 scheduled areas to be shown separately in the Annual Financial Statement.—The estimated receipts and expenditure pertaining to the scheduled areas in the State which are to be credited to, or is to be met from, the revenues of the State shall be shown separately in the Annual Financial Statement 15 of the State to be laid before the Legislature of the State under Article 177 of this Constitution.

Part IV

PROVISIONS AS TO THE STATE OF EAST PUNJAB

14. Application of Part IV.—The provisions of this 20 Part shall apply only to the State of East Punjab.

15. Appointment of Scheduled Areas Advisory Committee.—

(1) As soon as may be after the commencement of this Constitution the Governor shall by order appoint for the State a Scheduled Areas Advisory Committee, two-thirds of the mem- 25 bers of which shall be the residents of the scheduled areas in the State. Such order may define the composition, powers and procedure of the Committee and may contain such incidental or ancillary provisions as the Governor may consider necessary or desirable. 30

(2) It shall be the duty of the Scheduled Areas Advisory Committee generally to advise the Government of the State on all matters pertaining to the administration of the scheduled areas in the State.

16. Application of Acts of Parliament or of the Legislature 35 of the State to scheduled areas.—The Governor may by public notification direct that any particular Act of Parliament or of the Legislature of the State shall not apply to a scheduled area or any part thereof in the State or shall apply to a scheduled area or any part thereof in the State subject to such 40 exceptions and modifications as he may specify in the notification.

17. Power of Governor to make regulations.—(1) The Governor may make regulations for any scheduled area in the State with respect to the trial of cases relating to offences other than those which are punishable with death, transportation for life or imprisonment for five years or upwards, or for the trial of such classes of suits or cases of small pecuniary value as may be specified in such regulations, and may also by such regulations empower the headmen or panchayats in any such area to try such cases or suits. 5

(2) The Governor may also make regulations so as to prohibit the transfer of any land in a scheduled area in the State by a member of the scheduled tribes to any person who is not a member of the scheduled tribes. 10

(3) Any regulations made under this paragraph when promulgated by the Governor shall have the same force and effect as any Act of the appropriate Legislature which applies to such area and has been enacted by virtue of the powers conferred on that Legislature by this Constitution. 15

Part V

SCHEDULED AREAS

20

***18. Scheduled areas.**—(1) The areas specified in Parts I to VII of the Table below shall be the scheduled areas within the meaning of this Constitution, and any reference in the said Table to any division, district, administrative area, tahsil or estate shall be construed as a reference to that division, district, area, tahsil or estate as existing on the date of commencement of this Constitution. 25

(2) The President may at any time by Order—

- (a) direct that the whole or any specified part of a scheduled area shall cease to be a scheduled area or a part of such an area; 30
- (b) alter, but only by way of rectification of boundaries, any scheduled area;

*The Committee is of opinion that a provision on the lines of section 91(2) of the Government of India Act, 1935, as originally enacted, should be included in this paragraph to enable any area to be excluded from or included in the scheduled areas and the Committee has accordingly added sub-paragraph (2) to this paragraph.

- (c) on any alteration of the boundaries of a State for the time being specified in Part I of the First Schedule or on the inclusion in Part I of that Schedule of a new State admitted into the Union or established by Parliament by law, declare any territory not previously included in any State so specified to be, or to form part of, a scheduled area, 5

and any such Order may contain such incidental and consequential provisions as appear to the President to be necessary and proper. 10

TABLE

I—MADRAS

The Laccadive Islands (including Minicoy) and the Amin-divi Islands.

The East Godavari Agency and so much of the Vizagapatam Agency as is not transferred to Orissa under the provisions of the Government of India (Constitution of Orissa) Order, 1936. 15

II—BOMBAY

In the West Khandesh District:—The Navapur Petha, the Akrani Mahal and the villages belonging to the following Mehwasai Chiefs: (1) the Parvi of Kathi, (2) the Parvi of Nal, (3) the Parvi of Singpur, (4) the Walvi of Gaohali, (5) the Wassawa of Chikhli, and (6) the Parvi of Navalpur. 20

In the East Khandesh District:—The Satpura Hills reserved forest areas. 25

In the Nasik District:—The Kalvan Taluk and Peint Petha.

In the Thana District:—The Dahanu and Shahapur Talukas and Mokhada and Umbergaon Pethas. 30

III.—THE UNITED PROVINCES

The Jaunsar-Bawar Pargana of the Dehra Dun District.

The portion of the Mirzapur District south of the Kaimur range.

IV.—EAST PUNJAB

Spiti and Lahaul in the Kangra District. 35

V.—BIHAR

The Ranchi and Singhbhum Districts, and the Latehar sub-division of the Palamau District of the Chota Nagpur Division. 40

The Santal Parganas District excluding the Godda and Deogarh Sub-divisions.

VI.—THE CENTRAL PROVINCES AND BERAR

In the Chanda district, the Ahiri Zamindari in the Sironcha Tahsil and the Dhanora, Dudmala, Gewardha, 5 Jharapapra Khutgaon, Kotgal, Muramgaon, Palasgarh, Rangi, Sirsundi Sonsari, Chandala, Gilgaon, Pai-Muranda and Potegaon Zamindaris in the Garchiroli Tahsil.

The Harrai, Gorakghat, Gorpani, Batkagarh, Bardagarh Partabgarh (Pagara), Almod and Sonpur Jagirs of the 10 Chhindwara District, and the portion of the Pachmarhi jagir in the Chhindwara District.

The Mandla District.

The Pendra, Kenda, Matin, Lapha, Uprora, Chhuri and Korba Zamindaris of the Bilaspur District. 15

The Aundhi, Koracha, Panabaras and Ambagarh Chauki Zamindaris of the Drug District.

The Baihar Tahsil of the Balaghat District.

The Melghat Taluk of the Amraoti District.

The Bhainsdehi Tahsil of the Betul District. 20

VII.—ORISSA

The Ganjam Agency Tracts including Khondmals.

The Koraput District.

SIXTH SCHEDULE

[Articles 189 (b) and 190 (2)]

PROVISIONS AS TO THE ADMINISTRATION OF THE TRIBAL AREAS IN ASSAM

1. Autonomous districts and autonomous regions.—(1) 5

The tribal areas in each item of Part I of the Table appended to paragraph 19 of this Schedule for the time being included in that Part shall be an autonomous district.

(2) If there are different scheduled tribes in an autonomous district, the Governor may, by public notification, divide 10 the area or areas inhabited by them into autonomous regions.

(3) The Governor may, by public notification—

(a) include any area in Part I of the said Table,

(b) create a new autonomous district,

(c) increase the area of any autonomous district, 15

(d) exclude any area from Part I of the said Table,

(e) diminish the area of any autonomous district:

Provided that no order shall be made by the Governor under clause (b) or clause (c) of this sub-paragraph except after consideration of the report of a Commission appointed 20 under sub-paragraph (1) of paragraph 14 of this Schedule:

Provided further that no order shall be made by the Governor under clause (d) or clause (e) of this sub-paragraph unless a resolution to that effect is passed by the District Council of the autonomous district concerned. 25

2. Constitution of District Councils and Regional Councils.—(1) There shall be a District Council for each auto-

nomous district consisting of not less than twenty and not more than forty members of whom not less than three-fourths shall be elected on the basis of adult suffrage. 30

(2) The territorial constituencies for elections to each District Council shall be so delimited that as far as possible the areas inhabited by the different scheduled tribes of the district and the areas, if any, inhabited by other persons shall form separate constituencies: 35

Provided that no constituency shall be formed which has a total population of less than five hundred.

(3) There shall be a separate regional Council for each area constituted an autonomous region under sub-paragraph (2) of paragraph 1 of this Schedule. 40

(4) Each District Council and each Regional Council shall be a body corporate by the name respectively of "the District Council of (name of District)" and "the Regional Council of (name of Region)", shall have perpetual succession and a common seal and shall by the said name sue and be sued. 5

(5) Subject to the provisions of this Schedule the administration of an autonomous district shall, in so far as it is not vested under this Schedule in any Regional Council within such district, be vested in the District Council for such district and the administration of an autonomous Region shall be vested in the Regional Council for such region. 10

(6) In an autonomous district with Regional Councils, the District Council shall have only such powers with respect to the areas under the authority of the Regional Council as may be delegated to it by the Regional Council in addition 15 to the powers conferred on it by this Schedule with respect to such areas.

(7) The Governor shall make rules for the first constitution of District Councils and Regional Councils in consultation with the existing tribal Councils or other representative 20 tribal organisations within the autonomous districts or regions concerned and such rules shall provide for—

- (a) the composition of the District Councils and Regional Councils and the allocation of seats therein;
- (b) the delimitation of territorial constituencies for the 25 purpose of elections to those Councils;
- (c) the qualifications for voting at such elections and the preparation of electoral rolls;
- (d) the qualifications for being elected at such elections as members of such Councils; 30
- (e) any other matter relating to or connected with elections or nominations to such Councils;
- (f) the procedure and the conduct of business in the District and Regional Councils;
- (g) the appointment of officers and staff of the District 35 and Regional Councils.

(8) The District or the Regional Council may after its first constitution make rules with regard to the matters specified in sub-paragraph (7) of this paragraph and may also make rules regulating— 40

- (a) the formation of subordinate local Councils or Boards and their procedure and the conduct of their business; and

- (b) generally all matters relating to the transaction of business pertaining to the administration of the district or region, as the case may be:

Provided that until rules are made by the District or the Regional Council under this sub-paragraph the rules made by the Governor under sub-paragraph (7) of this paragraph shall have effect in respect of elections to, the officers and staff of, and the procedure and the conduct of business in, each such Council:

Provided further that the Deputy Commissioner or the Sub-Divisional Officer, as the case may be, of the Mikir and North Cachar Hills shall be the Chairman ex-officio of the District Council in respect of the territories included in items 5 and 6 respectively of Part I of the Table appended to paragraph 19 of this Schedule and shall have power for a period of six years after the first constitution of the District Council, subject to the control of the Governor, to annul or modify any resolution or decision of the District Council or to issue such instructions to the District Council, as he may consider appropriate, and the District Council shall comply with every such instruction issued.

3. Powers of the District Councils and Regional Councils to make laws.—(1) The Regional Council for an autonomous region in respect of all areas within such region and the District Council for an autonomous district in respect of all areas within the district except those which are under the authority of Regional Councils, if any, within the district shall have power to make laws with respect to—

- (a) the allotment, occupation or use, or the setting apart of land other than any land which is a reserved forest for the purposes of agriculture or grazing or for residential or other non-agricultural purposes or for any other purpose likely to promote the interests of the inhabitants of any village or town:

Provided that nothing in such laws shall prevent the compulsory acquisition of any land whether occupied or unoccupied for public purposes by the State of Assam in accordance with the law for the time being in force authorising such acquisition;

- (b) the management of any forest not being a reserved forest;
- (c) the use of any canal or water-course for the purpose of agriculture;

- (d) the regulation of the practice of jhum or other forms of shifting cultivation;
- (e) the establishment of village or town committees or councils and their powers;
- (f) any other matter relating to village or town administration including village or town police and public health and sanitation; 5
- (g) the appointment or succession of Chiefs or Headmen;
- (h) the inheritance of property;
- (i) marriage; 10
- (j) social customs.

(2) In this paragraph, a "reserved forest" means any area which is a reserved forest under the Assam Forest Regulation, 1899, or under any other law for the time being in force in the area in question. 15

4. Administration of justice in autonomous districts and autonomous regions.—

(1) The Regional Council for an autonomous region in respect of areas within such region and the District Council for an autonomous district in respect of areas within the district other than those which are under the authority of the Regional Councils, if any, within the district may constitute village Councils or courts for the trial of suits and cases other than those to which the provisions of sub-paragraph (1) of paragraph 5 of this Schedule apply or those arising out of any law made under paragraph 3 of this Schedule, to the exclusion of any court in the State, and may appoint suitable persons to be members of such village Councils or presiding officers of such courts, and may also appoint such officers as may be necessary for the administration of the laws made under paragraph 3 of this Schedule. 20 25 30

(2) Notwithstanding anything in this Constitution the Regional Council for an autonomous region or any court constituted in this behalf by the Regional Council or, if in respect of any area within an autonomous district there is no Regional Council, the District Council for such district, or any court constituted in this behalf by the District Council, shall exercise the powers of a Court of Appeal in respect of all suits and cases between the parties all of whom belong to scheduled tribes within such region or area, as the case may be, other than those to which the provisions of sub-paragraph (1) of paragraph 5 of this Schedule apply, and no other Court 35 40

in the State shall have appellate jurisdiction over such suits or cases and the decision of such Regional or District Council or Court shall be final.

5. Conferment of powers under the Code of Civil Procedure, 1908 and the Code of Criminal Procedure, 1898 on the Regional and District Councils and on certain courts and officers for the trial of certain suits and offences.—(1) The Governor may, for the trial of suits or cases arising out of any law in force in any autonomous district or region being a law specified in this behalf by the Governor, or for the trial of offences punishable with death, transportation for life, or imprisonment for a term of not less than five years under the Indian Penal Code or under any other law for the time being applicable to such region or district, confer on the District Council or the Regional Council having authority over such district or region or on courts constituted by such District Council or on any officer appointed in this behalf by the Governor, such powers under the Code of Civil Procedure, 1908 or, as the case may be, the Code of Criminal Procedure, 1898, as he deems appropriate, and thereupon the said Council, court or officer shall try the suits, cases or offences in exercise of the powers so conferred.

(2) The Governor may withdraw or modify any of the powers conferred on a District Council, Regional Council, court or officer under sub-paragraph (1) of this paragraph.

(3) Save as expressly provided in this paragraph the Code of Civil Procedure, 1908 and the Code of Criminal Procedure 1898, shall not apply to the trial of any suits, cases or offences in an autonomous district or in any autonomous region.

6. Powers of the District Council to establish primary schools, etc.—The District Council for an autonomous district may establish, construct, or manage primary schools, dispensaries, markets, cattle pounds, ferries, fisheries, roads and waterways in the district and in particular may prescribe the language and the manner in which primary education shall be imparted in the primary schools in the district.

7. District and Regional Funds.—(1) There shall be constituted for each autonomous district, a District Fund and for each autonomous region, a Regional Fund to which shall be credited all moneys received respectively by the District Council for that district and the Regional Council for that region in the course of the administration of such district or region, as the case may be, in accordance with the provisions of this Constitution.

(2) Subject to the approval of the Governor rules may be made by the District Council and by the Regional Council for the management of the District Fund or, as the case may be, the Regional Fund, and the rules so made may prescribe the procedure to be followed in respect of payment of money into the said Fund, the withdrawal of moneys therefrom, the custody of moneys therein and any other matter connected with or ancillary to the matters aforesaid. 5

8. Powers to assess and collect land revenue and to impose taxes.—(1) The Regional Council for an autonomous region in respect of all lands within such region and the District Council for an autonomous district in respect of all lands within the district except those which are in the areas under the authority of Regional Councils, if any, within the district, shall have the power to assess and collect revenue in respect of such lands in accordance with the principles for the time being followed by the Government of Assam in assessing lands for the purpose of land revenue in the State of Assam generally. 15

(2) The Regional Council for an autonomous region in respect of areas within such region and the District Council for an autonomous district in respect of all areas in the district except those which are under the authority of Regional Councils, if any, within the district, shall have power to levy and collect taxes on land and buildings, and tolls on persons resident within such areas. 25

(3) The District Council for an autonomous district shall have the power to levy and collect all or any of the following taxes within such district, that is to say—

- (a) tax on professions, trades, callings and employments; 30
- (b) a tax on animals, vehicles and boats;
- (c) taxes on the entry of goods into a market for sale therein, and tolls on passengers and goods carried in ferries; and
- (d) taxes for the maintenance of schools, dispensaries or roads. 35

(4) A Regional Council or District Council, as the case may be, may make regulations to provide for the levy and collection of any of the taxes specified in sub-paragraphs (2) and (3) of this paragraph. 40

9. Licences or leases for the purpose of prospecting for, or extraction of, minerals.—(1) No licence or lease shall be granted by the Government of Assam for the purpose of prospecting

for, or the extraction of, minerals in any area comprised within an autonomous district, save in consultation with the District Council for that district.

(2) Such share of the royalties accruing each year from licences or leases for the purpose of prospecting for, or the extraction of, minerals granted by the Government of Assam in respect of any area within an autonomous district as may be agreed upon between the Government of Assam and the District Council of such district shall be made over to that District Council. 10

(3) If any dispute arises as to the share of such royalties to be made over to a District Council, it shall be referred to the Governor for determination and the amount determined by the Governor in his discretion shall be deemed to be the amount payable under sub-paragraph (2) of this paragraph to the District Council and the decision of the Governor shall be final. 15

10. Power of District Council to make regulations for the control of money-lending and trading by non-tribals.—(1) The District Council of an autonomous district may make regulations for the regulation and control of money-lending or trading within the district by persons other than scheduled tribes resident in the district. 20

(2) Such regulations may—

- (a) prescribe that no one except the holder of a licence issued in that behalf shall carry on the business of money-lending; 25
- (b) prescribe the maximum rate of interest which may be charged or be recovered by a money-lender;
- (c) provide for the maintenance of accounts by money-lenders and for the inspection of such accounts by officers appointed in this behalf by the District Council; 30
- (d) prescribe that no person who is not a member of the scheduled tribes resident in the district shall carry on wholesale or retail business in any commodity except under a licence issued in that behalf by the District Council: 35

Provided that no such regulations may be made under this paragraph unless they are passed by a majority of not less than three-fourths of the total membership of the District Council: 40

Provided further that it shall not be competent under any such regulations to refuse the grant of a licence to a money-lender or a trader who has been carrying on business within the district since before the time of the making of such regulations. 5

11. Publication of laws, rules and regulations made under the Schedule.—All laws, rules and regulations made under this Schedule by a District Council or a Regional Council shall be published forthwith in the Official Gazette of the State and shall on such publication have the force of law. 10

12. Application of Acts of Parliament and of the Legislature of the State to autonomous districts and autonomous regions—Notwithstanding anything contained in this Constitution—

(a) no Act of the Legislature of the State in respect of any of the matters specified in paragraph 3 of this Schedule as matters with respect to which a District Council or a Regional Council may make laws, and no Act of the Legislature of the State prohibiting or restricting the consumption of any non-distilled alcoholic liquor shall apply to any autonomous district or autonomous region unless in either case the District Council for such district or having jurisdiction over such region by public notification so directs, and the District Council in giving such direction with respect to any Act may direct that the Act shall in its application to such district or region or any part thereof have effect subject to such exceptions or modifications as it thinks fit; 15 20 25 30

(b) the Governor may, by public notification, direct that any Act of Parliament or of the Legislature of the State to which the provisions of clause (a) of this paragraph do not apply shall not apply to an autonomous district or an autonomous region, or shall apply to such district or region or any part thereof subject to such exceptions or modifications as he may with the approval of the District Council for such district or the Regional Council for such region specify in the notification, if a resolution recommending the issue of such direction is passed by such District Council or such Regional Council, as the case may be. 35 40

13. Estimated receipts and expenditure pertaining to autonomous districts to be shown separately in the annual financial statement.—The estimated receipts and expenditure pertaining to an autonomous district which are to be credited to, or is to be made from, the revenues of the State of Assam shall be shown separately in the annual financial statement of the State to be laid before the Legislature of the State under article 177 of this Constitution. 5

14. Appointment of Commission to inquire into and report on the administration of autonomous districts.—(1) The Governor of Assam may at any time appoint a Commission to examine and report on any matter specified by him relating to the administration of the autonomous districts in the State, or may appoint a Commission to inquire into and report from time to time on the administration of autonomous districts in the State generally and in particular on— 10

(a) the provision of educational and medical facilities and communications in such districts;

(b) the need for any new or special legislation in respect of such districts; and 20

(c) the administration of the laws, regulations and rules made by the District and Regional Councils;

and define the procedure to be followed by such Commission.

(2) The report of every such Commission with the recommendations of the Governor with respect thereto shall be laid before the Legislature of the State by the minister concerned together with an explanatory memorandum regarding the action proposed to be taken thereon by the Government of Assam. 25

(3) In allocating the business of the Government of the State among his ministers the Governor of Assam may place one of his ministers specially in charge of the welfare of the autonomous districts in the State. 30

15. Annulment or suspension of acts and resolutions of the District or Regional Councils.—(1) If at any time the Governor is satisfied that an act or resolution of a Regional Council or a District Council is likely to endanger the safety of India, he may annul or suspend such act or resolution and take such steps as he may consider necessary (including the suspension of the Council and the assumption to himself of all or any of the powers vested in or exercisable by the Council) to prevent the commission or continuance of such act, or the giving of effect to such resolution. 35 40

(2) Any order made by the Governor under sub-paragraph (1) of this paragraph together with the reasons therefor shall be laid before the Legislature of the State as soon as possible and the order shall, unless revoked by the Legislature of the State, continue in force for a period of twelve months from the date on which it was so made: 5

Provided that if and so often as a resolution approving the continuance in force of such order is passed by the Legislature of the State the order shall unless cancelled by the Governor continue in force for a further period of twelve months from the date on which under this paragraph it would otherwise have ceased to operate. 10

(3) The functions of the Governor under this paragraph shall be exercised by him in his discretion.

16. Dissolution of a District or Regional Council.—The Governor may on the recommendation of a Commission appointed under paragraph 14 of this Schedule by public notification order the dissolution of a Regional or a District Council and— 15

(a) direct that a fresh general election shall be held immediately for the reconstitution of the Council, or 20

(b) subject to the previous approval of the Legislature of the State assume the administration of the area under the authority of such Council himself or place the administration of such area under the Commission appointed under the said paragraph or any other body considered suitable by him for a period not exceeding twelve months: 25

Provided that when an order under clause (a) of this paragraph has been made the Governor may take the action referred to in clause (b) of this paragraph with regard to the administration of the area in question pending the re-constitution of the Council on fresh general election: 30

Provided further that no action shall be taken under clause (b) of this paragraph without giving the District or the Regional Council, as the case may be, an opportunity of being heard by the Legislature of the State. 35

17. Application of the provisions of this Schedule to areas specified in Part II of the table appended to paragraph 19.—

(1) The Governor of Assam may— 40

(a) subject to the previous approval of the President, by public notification, apply all or any of the foregoing provisions of this Schedule to any tribal area specified in Part II of the table appended to paragraph

19 of this Schedule or any portion of such area and thereupon such area or portion shall be administered in accordance with such provisions, and

- (b) may also with like approval exclude any tribal area specified in Part II of the said table or any portion thereof from the said table. 5

(2) Until a notification is issued under sub-paragraph (1) of this paragraph in respect of any tribal area specified in Part II of the said table or any portion of such area, the administration of such area or portion thereof, as the case may be, shall be carried on by the President through the Governor of Assam as his agent and the provisions of Part VIII of this Constitution shall apply thereto as if such area or portion thereof were a territory specified in Part IV of the First Schedule. 15

18. Transitional provisions.—As soon as possible after the commencement of this Constitution the Governor of Assam shall take steps for the constitution of a District Council for each autonomous district in the State under this Schedule and until a District Council is so constituted for an autonomous district the administration of such district shall be vested in the Governor in his discretion and the following provisions shall apply to the administration of the areas within such district instead of the provisions contained in this Schedule, namely:— 25

- (a) no Act of Parliament or of the Legislature of the State shall apply to such area unless the Governor by public notification so directs; and the Governor in giving such a direction with respect to any Act may direct that the Act shall in its application to the area or to any specified part thereof, have effect subject to such exceptions or modifications as he thinks fit; 30
- (b) the Governor may make regulations for the peace and good government of such area and any regulations so made may repeal or amend any Act of Parliament or of the Legislature of the State or any existing law which is for the time being applicable to such area. Regulations made under this clause shall be submitted forthwith to the President and until assented to by him shall have no effect; 40
- (c) the Governor shall exercise his functions under clauses (a) and (b) of this paragraph in his discretion. 45

19. Tribal areas.—The areas specified in Parts-I and II of the table below shall be the tribal areas within the State of Assam, and any reference in the said table to any district or administrative area shall be construed as a reference to that district or area as existing on the date of commencement 5 of this Constitution:

TABLE

Part I

- | | |
|--|----|
| 1. The Khasi and Jaintia Hills District excluding the town of Shillong. | 10 |
| 2. The Garo Hills District. | |
| 3. The Lushai Hills District. | |
| 4. The Naga Hills District. | |
| 5. The North Cachar Sub division of Cachar District. | |
| 6. The Mikir Hills portion of Nowgong and Sibsagar Districts excepting the mouzas of Barpathar and Sarupathar. | 15 |

Part II

- | | |
|---|----|
| 1. The Sadiya and Balipara Frontier Tracts. | |
| 2. The Tirap Frontier Tract (excluding the Lakhimpur Frontier Tract). | 20 |
| 3. The Naga Tribal Area. | |

SEVENTH SCHEDULE.

[Article 217.]

LIST I—Union List

*1. The defence of the territory of India and of every part thereof and generally all preparation for defence, as well as all such acts as may be conducive in times of war to its successful prosecution and after its termination to effective demobilisation. 5

2. Central Intelligence Bureau.

3. Preventive detention in the territory of India **for 10 reasons connected with defence, external affairs or the security of India.

***4. The raising, training, maintenance and control of the Naval, Military and Air Forces of the Union and their employment; the strength, organisation and control of the armed forces raised and employed in States for the time being specified in Part III of the First Schedule. 15

5. Industries declared by Parliament by law to be necessary for the purpose of defence or for the prosecution of war.

6. Naval, Military and Air Force works. 20

7. Local self-government in cantonment areas, the constitution and powers within such areas of cantonment authorities, the regulation of house accommodation in such areas and the delimitation of such areas.

8. Arms, firearms, ammunition and explosives. 25

9. Atomic energy and mineral resources essential to its production.

* The Committee has omitted the entry 'Requisitioning of lands for defence purposes including training and manœuvres' as the matter will be covered by entry 43.

** The words 'reasons connected with defence, external affairs or the security of India' have been substituted for the words 'reasons of State' in this entry to avoid conflict with entry 1 of the State List relating to preventive detention for reasons connected with the maintenance of public order.

*** This follows the entry as adopted by the Constituent Assembly, but the Chairman of the Drafting Committee strongly feels that the second part of the entry relating to armed forces in States in Part III of the first Schedule should be deleted in order to preclude such States from maintaining any armed forces of their own.

10. Foreign Affairs; all matters which bring the Union into relation with any foreign country.

11. Diplomatic, consular and trade representation.

12. United Nations Organisation.

13. Participation in international conferences, associations and other bodies and implementing of decisions made thereat.

14. War and Peace.

15. The entering into and implementing of treaties and agreements with foreign countries. 10

16. Foreign jurisdiction.

17. Trade and Commerce with foreign countries.

18. Foreign loans.

19. Citizenship, naturalisation and aliens.

20. Extradition. 15

21. Passports and visas.

22. Piracies, felonies and offences against the law of nations committed on the high seas and in the air.

23. Admission into, and emigration and expulsion from the territory of India. 20

24. Pilgrimages to places beyond India.

25. Port quarantine; seamen's and marine hospitals, and hospitals connected with port quarantine.

26. Import and export across customs frontiers as defined by the Government of India. 25

27. *Posts and telegraphs.

28. **Telephones, wireless, broadcasting and other like forms of communication.

29. Post Office Savings Bank.

30. Airways; aircraft and air navigation; provision of aerodromes; regulation and organisation of air traffic and of aerodromes; provision for aeronautical education and training and regulation of such education and training provided by States and other agencies.

* For restrictions on the power of Parliament to make laws with respect to 'Posts and telegraphs' in relation to States for the time being specified in Part III of the First Schedule, see article 224 (a).

**For restrictions on the power of Parliament to make laws with respect to 'Telephones, wireless, broadcasting and other like forms of communication' in relation to States for the time being specified in Part III of the First Schedule see article 224 (b).

31. National highways declared to be such by Parliament by law.

32. Shipping and navigation on inland waterways, declared by Parliament by law to be national waterways, as regards mechanically propelled vessels, and the rule of the road on such waterways; carriage of passengers and goods on such waterways. 5

33. Maritime shipping and navigation, including shipping and navigation on tidal waters; provision of education and training for the mercantile marine and regulation of such education and training provided by States and other agencies. 10

34. Admiralty jurisdiction.

35. Ports declared to be major ports by or under law made by Parliament or existing law including their delimitation, and the constitution and powers of port authorities therein. 15

36. Lighthouses, including lightships, beacons and other provision for the safety of shipping and aircraft.

37. Carriage of passengers and goods by air or by sea.

38. Union railways; the regulation of all railways other than minor railways in respect of the safety, maximum and minimum rates and fares, station and service terminal charges, interchange of traffic and the responsibility of railway administrations as carriers of goods and passengers; the regulation of minor railways in respect of safety and the responsibility of the administrations of such railways as carriers of goods and passengers. 20 25

39. The institutions known on the 15th day of August, 1947, as the Imperial Library, the Indian Museum, the Imperial War Museum, the Victoria Memorial and any other institution financed by the Government of India wholly or in part and declared by Parliament by law to be an institution of national importance. 30

40. The institutions known on the 15th day of August, 1947, as the Benares Hindu University and the Aligarh Muslim University. 35

41. The Survey of India, the Geological, Botanical and Zoological Surveys of India; Union Meteorological organisations.

42. Property of the Union and the revenue therefrom, but as regards property situated in a State subject always to legislation by the State, save in so far as Parliament by law otherwise provides. 40

***43. Acquisition or requisitioning of property for the purposes of the Union subject to the provisions of List III with respect to regulation of the principles on which compensation is to be determined for property acquired or requisitioned for the purposes of the Union.**

5.

44. Reserve Bank of India.

45. Public debt of the Union.

46. Currency, foreign exchange, coinage and legal tender.

47. Banking.

48. Cheques, bills of exchange, promissory notes and other like instruments.

10.

49. Insurance.

****50. Corporations, that is to say, the incorporation, regulation and winding up of trading corporations, including banking, insurance and financial corporations but not including co-operative societies, and of corporations, whether trading or not, with objects not confined to one State, but not including universities.**

15.

51. Patents, copyright, inventions, designs, trademarks and merchandise marks.

20.

*****52. Constitution, organisation, jurisdiction and powers of the Supreme Court and fees taken.**

53. Extension of the jurisdiction of a High Court having its principal seat in any State within the territory of India except the States for the time being specified in Part III of the First Schedule to, and exclusion of the jurisdiction of any such High Court from, any area outside that State.

25.

54. Jurisdiction and powers of all courts, other than the Supreme Court, with respect to any of the matters in this List.

*The Committee is of opinion that the principle on which compensation is to be paid for the acquisition or the requisitioning of property should be the subject-matter of the Concurrent List and this entry has been revised accordingly and a new entry 35 has been inserted for the purpose in the Concurrent List.

** For restrictions on the power of Parliament to make laws with respect to 'Corporations' in relation to States for the time being specified in Part III of the First Schedule, see article 224 (c).

*** The Committee is of opinion that the reference to 'Federal Judiciary' should be omitted from this entry as there should not be parallel judiciaries in the Union. The Committee has, however, inserted a new article 219 providing power to Parliament to establish additional courts for the better administration of the laws made by Parliament and existing laws with respect to matters in the Union List on the lines of Section 101 of the British North America Act, 1867.

55. Census.

56. Inquiries, surveys, and statistics for the purposes of the Union.

57. Union agencies and institutes for the following purposes, that is to say, for research, for professional or technical training, or for the promotion of special studies. 5

58. Union Public Services and Union Public Service Commission.

59. Industrial disputes concerning Union employees.

***60. Ancient and Historical Monuments declared by Parliament by law to be of national importance; archaeological sites and remains.** 10

61. Establishment of standards of weight and measure.

62. Opium, so far as regards cultivation and manufacture, or sale for export. 15

63. Petroleum and other liquids and substances declared by Parliament by law to be dangerously inflammable, so far as regards possession, storage and transport.

64. Development of industries where development under the control of the Union is declared by Parliament by law to be expedient in the public interest. 20

65. Regulation of labour and safety in mines and oilfields.

66. Regulation of mines and oilfields and mineral development to the extent to which such regulation and development under the control of the Union is declared by Parliament by law to be expedient in the public interest. 25

67. Extension of the powers and jurisdiction of members of a police force belonging to any part of a State for the time being specified in Part I or Part II of the First Schedule to any area in any other State so specified, but not so as to enable the police of one part to exercise powers and jurisdiction elsewhere without the consent of the government of the State; extension of the powers and jurisdiction of members of a force belonging to any State to railway areas outside that State. 30

68. Elections to Parliament and of the President and Deputy President; and Election Commission to superintend, direct and control such elections. 35

*The Committee is of opinion that Ancient and Historical Monuments declared by Parliament by law to be of national importance should be mentioned in this entry and not any and every Ancient and Historical Monument.

69. The emoluments and allowances and rights in respect of leave of absence of the President, the salaries and allowances of the Ministers for the Union and of the Chairman and Deputy Chairman of the Council of States and of the Speaker and Deputy Speaker of the House of the People; the salaries, allowances and privileges of the members of Parliament; the salary, allowances and the conditions of service of the Auditor-General of India.

70. The enforcement of attendance of persons for giving evidence or producing documents before committees of Parliament.

71. Migration from one State to another.

72. Inter-State quarantine.

73. Inter-State trade and commerce subject to the provision of entry 33 of List II.

74. The development of inter-State waterways for purposes of flood control, irrigation, navigation and hydro-electric power.

75. Fishing and fisheries beyond territorial waters.

76. Manufacture and distribution of salt by Union agencies; regulation and control of manufacture and distribution of salt by other agencies.

77. Provision for dealing with grave emergencies in any part of the territory of India affecting the Union.

78. Lotteries organised by the Government of India or the Government of any State.

*79. Stock Exchanges and futures market and taxes other than stamp duties on transactions therein.

80. The rates of stamp duty in respect of bills of exchange, cheques, promissory notes, bills of lading, letters of credit, policies of insurance, transfer of shares, debentures, proxies and receipts.

81. Duties in respect of succession to property other than agricultural land.

82. Estate duty in respect of property other than agricultural land.

83. Terminal taxes on goods or passengers, carried by railway or air; taxes on railway fares and freights.

84. Taxes on income other than agricultural income.

85. Duties of customs including export duties.

*This entry has been inserted to follow the recommendation of the Expert Committee on the Financial Provisions of the Constitution.

***86. Duties of excise on tobacco and other goods manufactured or produced in India except—**

- (a) alcoholic liquors for human consumption;
- (b) opium, Indian hemp and other narcotic drugs and narcotics; non-narcotic drugs;

but including medicinal and toilet preparations containing alcohol, or any substance included in sub-paragraph (b) of this entry.

87. Corporation tax.

88. Taxes on the capital value of the assets, exclusive of 10 agricultural land, of individuals and companies; taxes on the capital of companies.

89. Offences against laws with respect to any of the matters in this List.

90. Fees in respect of any of the matters in this List, but 15 not including fees taken in any court.

91. Any other matter not enumerated in List II or List III including any tax not mentioned in either of those Lists.

List II —State List

1. Public order (but not including the use of naval, 20 military or air forces in aid of the civil power); preventive detention for reasons connected with the maintenance of public order; persons subjected to such detention.

2. The administration of justice; constitution and organisation of all courts, except the Supreme Court, and fees taken 25 therein.

3. Jurisdiction and powers of all courts except the Supreme Court, with respect to any of the matters in this List; procedure in Rent and Revenue Courts.

4. Police, including railway and village police.

30

**The Committee is of opinion that duties of excise on medicinal and toilet preparations containing alcohol or any substance included in sub-paragraph (b) of this entry should be included in this entry as duties leviable by the Union, as it thinks that uniform rates of excise duty should be fixed in respect of these goods in all States for the sake of development of the pharmaceutical industry. The levy of different rates in different States is likely to lead to a discrimination in favour of goods imported from foreign countries which would be detrimental to the interests of Indian manufacturers as was pointed out by the Drugs Enquiry Committee in their report in 1931.*

5. Prisons, reformatories, Borstal institutions and other institutions of a like nature, and persons detained therein; arrangements with other States for the use of prisons and other institutions.

6. Public debt of the State. 5

7. State Public Services and State Public Service Commissions.

8. Works, lands and buildings vested in or in the possession of the State.

*9. Compulsory acquisition of land except for the 10
purposes of the Union subject to the provisions of List III
with respect to regulation of the principles on which compensation is to be determined for property acquired or requisitioned for the purposes of a State.

10. Libraries, museums and other similar institutions 15
controlled or financed by the State.

**11. Elections to the Legislature of the State and of the Governor of the State/for the constitution of a panel for the propose of the appointment of a Governor for the State; and Election Commission to superintend, direct and control such 20
elections.

12. The emoluments and allowances and rights with respect to leave of absence of the Governor of the State, salaries and allowances of the Ministers for the State, of the Speaker and Deputy Speaker of the Legislative Assembly, 25
and if there is a Legislative Council, of the Chairman and Deputy Chairman thereof; the salaries, allowances and privileges of the members of the Legislature of the State.

13. The enforcement of attendance of persons for giving evidence or producing documents before Committees of the 30
Legislature of the State.

14. Local Government, that is to say, the constitution and powers of municipal corporations, improvement trusts, district boards, mining settlement authorities and other local authorities for the purpose of local self-government or village 35
administration.

15. Public health and sanitation; hospitals and dispensaries; registration of births and deaths.

*See footnote to entry 43 of List I (Union List).

**The words 'for the constitution of a panel for the purpose of the appointment of a Governor for the State' will have to be used for the words 'of the Governor of the State' in this entry if the second alternative is adopted in article 131.

16. Pilgrimages, other than pilgrimages to places beyond India.

17. Burials and burial grounds; cremations and cremation grounds.

18. Education including Universities other than those specified in entry 40 of List I. 5

19. Communications, that is to say, roads, bridges, ferries, and other means of communication not specified in List I; minor railways subject to the provisions of List I with respect to such railways; municipal tramways; ropeways; inland waterways and traffic thereon subject to the provisions of List I and List III with regard to such waterways; ports, subject to the provisions in List I with regard to major ports; vehicles other than mechanically propelled vehicles. 10

20. Water, that is to say, water supplies, irrigation and canals, drainage and embankments, water storage and water power subject to the provisions of entry 74 of List I. 15

21. Agriculture, including agricultural education and research, protection against pests and prevention of plant diseases. 20

22. Improvement of stock and prevention of animal diseases; veterinary training and practice.

23. Pounds and the prevention of cattle trespass.

24. Land, that is to say, rights in or over land, land tenures including the relation of land-lord and tenant, and the collection of rents; transfer and alienation of agricultural land; land improvement and agricultural loans; colonization. 25

25. Courts of Wards, encumbered and attached estates.

26. Treasure trove.

27. Forests. 30

28. Regulation of mines and oilfields and mineral development subject to the provisions of List I with respect to regulation and development under the control of the Union.

29. Fisheries.

30. Protection of wild birds and wild animals. 35

31. Gas and gasworks.

32. Trade and commerce within the State; markets and fairs.

33. Regulation of trade, commerce and intercourse with other States for the purposes of the provisions of article 244 of this Constitution. 40

34. Money lending and money lenders; relief of agricultural indebtedness.

35. Inns and inn-keepers.

36. Production, supply and distribution of goods.

37. Development of industries, subject to the provisions in List I with respect to the development of certain industries under the control of the Union. 5

38. Adulteration of foodstuffs and other goods.

39. Weights and measures except establishment of standards. 10

40. Intoxicating liquors and narcotic drugs, that is to say, the production, manufacture, possession, transport, purchase and sale of intoxicating liquors; opium and other narcotic drugs, but subject, as respects opium, to the provisions of List I and, as respects poisons and dangerous drugs, to the provisions of List III. 15

41. Relief of the poor; unemployment.

42. The incorporation, regulation, and winding up of corporations not being corporations specified in List I, or Universities; unincorporated trading, literary, scientific, religious and other societies and associations; co-operative societies. 20

43. Charities and charitable institutions, charitable and religious endowments and religious institutions.

44. Theatres, dramatic performances and cinemas, but not including the sanction of cinematograph films for exhibition. 25

45. Betting and gambling.

46. Land revenue, including the assessment and collection of revenue, the maintenance of land records, survey for revenue purposes and records of rights, and alienation of revenues. 30

47. The rates of stamp duty in respect of documents other than those specified in the provisions of List I with regard to rates of stamp duty.

48. Duties in respect of succession to agricultural land. 35

49. Estate duty in respect of agricultural land.

50. Taxes on passengers and goods carried on inland waterways.

51. Taxes on agricultural income. 40

52. Duties of excise on the following goods manufactured or produced in the State and countervailing duties at the same or lower rates on similar goods manufactured or produced

elsewhere in the territory of India:—

(a) alcoholic liquors for human consumption;

(b) opium, Indian hemp and other narcotic drugs and narcotics, non-narcotic drugs;

*but not including medical and toilet preparations containing alcohol or any substance included in sub-paragraph (b) of this entry. 5

53. Taxes on lands and buildings.

54. Taxes on mineral rights, subject to any limitations imposed by Parliament by law relating to mineral development. 10

55. Capitation taxes.

56. Taxes on professions, trades, callings and employments.

57. Taxes on animals and boats.

15

**58. Taxes on the sale, turnover or purchase of goods including taxes in lieu thereof on the use or consumption within the State of goods liable to taxes within the State on sale, turnover or purchase; taxes on advertisements.

59. Taxes on vehicles suitable for use on roads, whether mechanically propelled or not, including tramcars. 20

60. Taxes on the consumption or sale of electricity.

61. Taxes on the entry of goods into a local area for consumption, use or sale therein.

62. Taxes on luxuries, including taxes on entertainments, amusements, betting and gambling. 25

63. Tolls.

64. Inquiries and statistics for the purpose of any of the matters in this List.

65. Offences against laws with respect to any of the matters in this List. 30

66. Fees in respect of any of the matters in this List, but not including fees taken in any court.

List III—Concurrent List

1. Criminal Law, including all matters included in the Indian Penal Code at the date of commencement of this Constitution, but excluding offences against laws with respect to

* See footnote to entry 86 of List I (Union List).

** This entry has been revised to follow the recommendation of the Expert Committee on the Financial Provisions of the Constitution.

any of the matters specified in List I or List II and excluding the use of the naval, military and air forces in aid of the civil power.

2. Criminal Procedure, including all matters included in the Code of Criminal Procedure at the date of commencement of this Constitution. 5

3. Removal of prisoners and accused persons from one State to another State.

4. Civil Procedure, including the law of Limitation and all matters included in the Code of Civil Procedure at the date of commencement of this Constitution; the recovery in a State for the time being specified in Part I or Part II of the First Schedule of claims in respect of taxes and other public demands including arrears of land revenue and sums recoverable as such, arising outside that State. 10 15

5. Evidence and oaths; recognition of laws, public acts and records and judicial proceedings.

6. Marriage and divorce; infants and minors; adoption.

*7. Wills, intestacy and succession; joint family and partition; all matters in respect of which parties in judicial proceedings were immediately before the commencement of this Constitution subject to their personal law. 20

8. Transfer of property other than agricultural land; registration of deeds and documents.

9. Trusts and Trustees. 25

10. Contracts, including partnership, agency, contracts of carriage, and other special forms of contracts, but not including contracts relating to agricultural land.

11. Arbitration.

12. Bankruptcy and insolvency. 30

13. Administrators-general and official trustees.

14. Stamp duties other than duties or fees collected by means of judicial stamps, but not including rates of stamp duty.

15. Actionable wrongs, save in so far as included in laws with respect to any of the matters specified in List II. 35

16. Jurisdiction and powers of all courts, except the Supreme Court, with respect to any of the matters in this List.

* The Committee is of opinion that if there is to be a uniform personal law, e. g., for Hindus, throughout India, all the matters included therein at present should be put into the Concurrent List. Hence the enlargement of this entry.

17. Legal, medical and other professions.
18. Newspapers, books and printing presses.
19. Lunacy and mental deficiency, including places for the reception or treatment of lunatics and mental deficient.
20. Poisons and dangerous drugs. 5
21. Mechanically propelled vehicles.
22. Boilers.
23. Prevention of cruelty to animals.
24. Vagrancy; nomadic and migratory tribes.
25. Factories. 10
26. Welfare of labour; conditions of labour; provident funds; employers' liability and workmen's compensation; health insurance, including invalidity pensions; old age pensions.
27. Unemployment and social insurance. 15
28. Trade Union; industrial and labour disputes.
29. The prevention of the extension from one State to another of infectious or contagious diseases or pests affecting men, animals or plants.
30. Electricity. 20
31. Shipping and navigation on inland waterways as regards mechanically propelled vessels, and the rule of the road on such waterways, and the carriage of passengers and goods on inland waterways subject to the provisions of List I with respect to National waterways. 25
32. The sanctioning of cinematograph films for exhibition.
33. Persons subjected to preventive detention under the authority of the Union.
34. Economic and social planning.
- *35. The principles on which compensation is to be determined for property acquired or requisitioned for the purposes of the Union or a State. 30
36. Inquiries and statistics for the purpose of any of the matters in this List.
37. Fees in respect of any of the matters in this List, but 35 not including fees taken in any court.

* See footnote to entry 43 of List I (Union List).

EIGHTH SCHEDULE

[Article 303 (I) (x)]

SCHEDULED TRIBES

Part I

MADRAS

5

1. Bagata
2. Bhottadas — Bodo Bhottada, Muria Bhottada and Sano Bhottada.
3. Bhumias — Bhuri Bhumia and Bodo Bhumia.
4. Bissoy . — Barangi Jodia, Bennangi Daduva, 10
Frangi, Hollar, Jhoriya, Kollai,
Konde, Paranga, Penga Jodia,
Sodo Jodia and Takora.
5. Dhakkada.
6. Dombs — Andhiya Dombs, Audiniya Dombs, 15
Chonel Dombs, Christian
Dombs, Mirgani Dombs, Oriya
Dombs, Ponaka Dombs, Telega
and Ummia.
7. Gadabas — Boda Gadaba, Cerllam Gadaba, 20
Franji Gadaba, Jodia Gadaba,
Olaro Gadaba, Pangi Gadaba
and Paranga Gadaba.
8. Ghasis . — Boda Ghasis and San Ghasis.
9. Gondi . — Modya Gond and Rajo Gond. 25
10. Goudus — Bato, Bhirithya, Dudhokouria,
Hato, Jatako and Joria.
11. Kosalya Goudus Bosothoriya Goudus, Chitti
— Goudus, Dangayath Goudus,
Doddu Kamariya, Dudu 30
Kamaro, Ladiya Goudus and
Pullosoriya Goudus.
12. Magatha Goudus Bernia Goudu, Boodo Magatha,
— Dongayath Goudu, Ladya
Goudu, Ponna Magatha and 35
Sana Magatha.
13. Seerithi Goudus
14. Holva.
15. Jadapus.
16. Jatapus.

17. Kammaras.
18. Khattis-Khatti, Kommaro and Lohara.
19. Kodu.
20. Kommar.
21. Konda Dhoras. 5
22. Konda Kapus.
23. Kondareddis.
24. Kondhs — Desaya Kondhs, Dongria Kondhs,
Kuttiya Kondhs, Tikiria Kondhs
and Yenity Kondhs. 10
25. Kotia . — Bartika, Benthoriya, Dhulia
or Dulia, Holva Paiko, Putiya,
Sanrona and Sidho Paiko.
26. Koya or Goud Raja of Rasha Koyas, Lingannari
with its subjects,— Koyas, (ordinary) and Kottu 15
Koyas.
27. Madigas
28. Malas or Agency Malas or Valmikies
29. Malis . — Korchia Malis, Paiko Malis and
Pedda Malis. 20
30. Maune.
31. Manna Dhora.
32. Mukha Dhora.—Nooka Dhora.
33. Muli or Muliya.
34. Muria. 25
35. Ojulus or Metta Komsalies.
36. Omanaito.
37. Paigarapu.
38. Palasi.
39. Palli. 30
40. Pentias.
41. Porjas . — Bodo, Bonda, Daruva, Didua,
Jodia, Mundili, Pengu, Pydi
and Saliya,
42. Reddi Dhoras. 35
43. Relli or Sachandi.
44. Ronas.
45. Savaras. — Kapu Savaras, Khutto Savaras
and Maliya Savaras.

46. The residents of the Laccadive, Minicoy and Amin-divi Islands.

Part II

BOMBAY

| | |
|--|----|
| 1. Barda. | 5 |
| 2. Bavacha. | |
| 3. Bhil. | |
| 4. Chodhra. | |
| 5. Dhanka. | |
| 6. Dhodia. | 10 |
| 7. Dubla. | |
| 8. Gamit, or Gamta. | |
| 9. Gond. | |
| 10. Kathodi, or Katkari. | |
| 11. Konkna. | 15 |
| 12. Koli Mahadeb. | |
| 13. Mavchi. | |
| 14. Naikda, or Nayak. | |
| 15. Pardhi, including Advichincher or Phanse Pardhi. | |
| 16. Patelia. | 20 |
| 17. Pomla. | |
| 18. Powara. | |
| 19. Rathawa. | |
| 20. Tadvī Bhill. | |
| 21. Thakur. | 25 |
| 22. Valvai. | |
| 23. Varli. | |
| 24. Vasava. | |

Part III

WEST BENGAL

- | | |
|------------|----|
| 1. Botia. | 30 |
| 2. Chakma. | |

| | |
|---|----|
| 3. Kuki. | |
| 4. Lepcha. | |
| 5. Munda. | |
| 6. Magh. | |
| 7. Mro. | 5 |
| 8. Oraon. | |
| 9. Santal. | |
| 10. Tippera. | |
| 11. Any other tribe notified by the Government of West Bengal. | 10 |

Part IV

THE UNITED PROVINCES

| | |
|---|----|
| 1. Bhuinya. | |
| 2. Baiswar. | |
| 3. Baiga. | 15 |
| 4. Gond. | |
| 5. Kharwar. | |
| 6. Kol. | |
| 7. Ojha. | |
| 8. Any other tribe notified by the Government of the United Provinces. | 20 |

Part V

EAST PUNJAB

The Tibetans in Spiti and Lahaul in the Kangra District.

Part VI

25

BIHAR

I. A resident of the State of Bihar belonging to any of the following tribes:—

1. Asur.
2. Banjara.

30

| | |
|---------------------|----|
| 3. Bathudi. | |
| 4. Bentkar. | |
| 5. Binjhia. | |
| 6. Birhor. | 5 |
| 7. Birjia. | |
| 8. Chero. | |
| 9. Chik Baraik. | |
| 10. Gadaba. | |
| 11. Ghatwar. | |
| 12. Gond. | 10 |
| 13. Gorait. | |
| 14. Ho. | |
| 15. Juang. | |
| 16. Karmali. | |
| 17. Kharia. | 15 |
| 18. Kharwar. | |
| 19. Khetauri. | |
| 20. Khond. | |
| 21. Kisan. | |
| 22. Koli. | 20 |
| 23. Kora. | |
| 24. Korwa. | |
| 25. Mahli. | |
| 26. Mal Paharia. | |
| 27. Munda. | 25 |
| 28. Oraon. | |
| 29. Parhiya. | |
| 30. Santal. | |
| 31. Sauria Paharia. | |
| 32. Savar. | 30 |
| 33. Tharu. | |

II. A resident in any of the following districts or police stations, that is to say, the districts of Ranchi, Singhbhum, Hazaribagh and the Santal Parganas, and the police stations of Arsha, Balarampur, Jhalda, Jaipur Baghmundi, Chan- 35
dil, Ichagarh, Barahabhum, Patamda Banduan and Manbazar

in the district of Manbhum, belonging to any of the following tribes:—

- | | |
|------------|----|
| 1. Bauri. | |
| 2. Bhogta. | 5 |
| 3. Bhuiya. | |
| 4. Bhumij. | |
| 5. Ghasi. | |
| 6. Pan. | |
| 7. Rajwar. | 10 |
| 8. Turi. | |

III. A resident in the Dhanbad sub-division or in any of the following police stations in the Manbhum District, that is to say, Purulia, Hura, Pancha, Raghunathpur, Santuri, Nituria, Para, Chas, Chandankiari and Kashipur, belonging to the Bhumij tribe. 15

Part VII

THE CENTRAL PROVINCES

- | | |
|--------------------|----|
| 1. Gond. | |
| 2. Kavar. | 20 |
| 3. Maria. | |
| 4. Muria. | |
| 5. Halba. | |
| 6. Pardhan. | |
| 7. Oraon. | 25 |
| 8. Binjhwar. | |
| 9. Andh. | |
| 10. Bharia-Bhumia. | |
| 11. Koli. | |
| 12. Bhattra. | 30 |
| 13. Baiga. | |
| 14. Kolam. | |
| 15. Bhil. | |
| 16. Bhuinhar. | |
| 17. Dhanwar. | 35 |
| 18. Bhaina. | |
| 19. Parja. | |
| 20. Kamar. | |

| | |
|-------------------------|----|
| 21. Bhunjia. | |
| 22. Nagarchi. | |
| 23. Ojha. | |
| 24. Korku. | |
| 25. Kol. | 5 |
| 26. Nagasia. | |
| 27. Sawara. | |
| 28. Korwa. | |
| 29. Majhwar. | |
| 30. Kharia. | 10 |
| 31. Saunta. | |
| 32. Kondh. | |
| 33. Nihal. | |
| 34. Birhul (or Birhor). | |
| 35. Rautia. | 15 |
| 36. Pando. | |

Part VIII

ASSAM.

The following tribes and communities:—

| | |
|--|----|
| 1. Kachari. | 20 |
| 2. Boro or Boro-Kachari. | |
| 3. Rabha. | |
| 4. Miri. | |
| 5. Lalung. | |
| 6. Mikir. | 25 |
| 7. Garo. | |
| 8. Hajonfi. | |
| 9. Deori. | |
| 10. Abor. | |
| 11. Mishmi. | 30 |
| 12. Daffa. | |
| 13. Singpho. | |
| 14. Khampti. | |
| 15. Any Naga or Kuki tribe. | |
| 16. Any other tribe or community notified by the Govern- ment of Assam. | 35 |

Part IX

ORISSA.

I. A resident of the State of Orissa belonging to any of the following tribes:—

| | |
|--------------------|----|
| 1. Bagata. | 5 |
| 2. Banjari. | |
| 3. Chenchu. | |
| 4. Gadaba. | |
| 5. Gond. | |
| 6. Jatapu. | 10 |
| 7. Khond (Kond). | |
| 8. Konda-Dora. | |
| 9. Koya. | |
| 10. Paroja. | |
| 11. Saora (Savar). | 15 |
| 12. Oraon. | |
| 13. Santal. | |
| 14. Kharia. | |
| 15. Munda. | |
| 16. Banjara. | 20 |
| 17. Binjhia. | |
| 18. Kisan. | |
| 19. Koli. | |
| 20. Kora. | |

II. A resident of any of the following areas, that is to say, the Koraput and Khondmals Districts and the Ganjam Agency belonging to either of the following tribes:—

1. Dom or Dombo.
2. Pan or Pano.

III. A resident of the Sambalpur District belonging to any of the following tribes:—

| | |
|-----------------|----|
| 1. Bauri. | |
| 2. Bhuiya. | |
| 3. Bhumij. | |
| 4. Ghasi. | 35 |
| 5. Turi. | |
| 6. Pan or Pano. | |

APPENDIX.

Separate notes submitted to the Constituent Assembly by Shri Alladi Krishnaswami Ayyar, Member, Drafting Committee.

While I may point out that there is no difference in principle between my colleagues and myself either in regard to the distribution of legislative power between the Parliament and the Units or in regard to the Union Parliament assuming power over a subject in the Provincial (State) List when it assumes or becomes of national importance, I should like to submit the following separate note for the consideration of the Constituent Assembly in regard to the articles bearing on the above matters, i.e., Articles 217, 223(1) and 226.

Distribution of Legislative Powers.—Articles 217 and 223(1)

2. The question as to the distribution of legislative power has been decided by the Constituent Assembly and it is settled that the residuary power should vest in the Centre. The only question, therefore, is how to frame the articles so as to carry out this idea. My colleagues have decided to follow the scheme in Section 100 of the Government of India Act and to have a separate article for the residuary power as also to have it as an item in the list of subjects allotted to the Union. The point of my plan is that inasmuch as it is agreed that the residuary power is to vest in the Centre (Union Parliament), the various enumerated items in the Union list are merely illustrative of the general residuary power vested in the Centre. The proper plan, therefore, is to define the powers of the States or Provincial Units in the first instance, then deal with the concurrent power and lastly deal with the power of the Centre or the Union Parliament while at the same time making out a comprehensive list of the powers vested in the Centre by way of illustration to the general power. The plan adopted in Section 100 of the Government of India Act was to some extent accounted for by the fact that there was no agreement then among political parties as regards the location of residuary power and it was left for the Governor-General to decide by which Legislature the residuary power was to be exercised in any particular place in cases not covered by any of the Lists. There is no such problem facing us now. A canvassing of the meaning and import of individual items in the Central List has become of much less importance now than under the provisions of the Government of India Act.

The repetition of "notwithstanding" in every clause of Section 100 has been the subject of prolonged and unnecessary arguments in courts.

No complication is likely to arise by reason of the States in Part III coming into the scheme of the Union as according to the draft Constitution the scheme of distribution is subject to agreement between the States and that is provided for by articles 224 and 225.

Further, in the articles as framed there is no provision to the effect that the power of legislation carries with it the power to make any provisions essential to the effective exercise of the legislative authority. Some such provisions occur in the Australian and American Constitutions, *vide* Section 51 of the Australian Constitution and Article I, Section 8, Sub-section 18 of the American Constitution.

I would, therefore, suggest for the consideration of the Constituent Assembly the following article as a substitute for Articles 217 and 223(1) in the draft.

“(1) The Legislature of the States in Part I, Schedule I, shall have exclusive power to make laws for the State or for any part thereof in relation to matters falling within the classes of subjects specified in List I (corresponding to Provincial Legislative List).

“(2) The Legislature of any of the States in Part I, Schedule I, shall in addition to the powers under Clause (1) have power to make laws for the State or any part thereof in relation to matters falling within the classes of subjects specified in List II, provided, however, that the Union Parliament shall also have power to make laws in relation to the same matters within the entire area of the Union or any part thereof, and an Act of the legislature of the State shall have effect in and for the State as long as and as far only as it is not repugnant to any Act of the Union Parliament.

“(3) In addition to the powers conferred by the previous sub-section, the Union Parliament may make laws for the peace, order and good government of the Union or any part thereof in relation to all matters not falling within the classes of subjects enumerated in List I and in particular and without prejudice to the generality of the foregoing, the Union Parliament shall have exclusive power to make laws in relation to all matters falling within the classes of subjects enumerated in List III.

“(4) (a) The Union Parliament shall have power to make laws for the peace, order and good government of the States in Part II, Schedule I.

(b) Subject to the general powers of Parliament under Sub-section (a), the Legislature of the States in Part II, Schedule I, shall have the power to make laws in relation to matters coming within the following classes of subjects :

Provided, however, that any law passed by that Unit shall have effect in and for that Unit so long and as far only as it is not repugnant to any law of the Union Parliament.

(This provision is necessary, if the recommendations of the *ad hoc* Committee on Chief Commissioners' Provinces in this regard are accepted.)

“(5) The power to legislate either of the Union Parliament or the Legislature of any State shall extend to all matters essential to the effective exercise of the legislative authority vested in the particular legislature.

“(6) Where a law of a State is inconsistent with a law of the Union Parliament or to any existing law with respect to any of the matters enumerated in List I or (List II), the law of the Parliament or as the case may be the existing law shall prevail and the law of the State shall to the extent to repugnancy be void.”

(This follows the Australian and American provisions. Without embarking upon an examination of each section and each clause, a court may easily come to the conclusion that an Act taken as a whole is repugnant to another law).

If it is felt necessary, special provision may be inserted in regard to laws in respect of matters in the Concurrent List on the lines of Article 231(2) though I think such a provision may not be necessary in view of the overriding power of the Central Legislature.

Articles 226 and 228.

3. I accept the principle underlying article 226 that if any subject in the Provincial List assumes national importance or becomes one of national interest in the language of the article, it ought to be possible for the Union to encroach (if one may use that expression) upon the Provincial field and take to itself the power to legislate on any subject in the Provincial List. But the very basis of the assumption of that power is that the subject can no longer be regarded as one merely of importance for the particular State but has assumed national dimensions.

If these premises be correct, there is no justification for a State to continue to retain the power. The object of the assumption of the power by the Union is not by some simple or easy method without having recourse to a change in the Constitution to convert what is Provincial or State power into a concurrent power. This principle is not kept in view in Article 228 which provides that the province will continue to have the legislative power in the particular subject. The conversion of what is a Provincial power into a concurrent power would offer a premium for interference by the Centre and may strike ultimately at the federal structure of the Constitution itself. I would, therefore, suggest the substitution of the following words:—

“on the ground that any matter enumerated in the State List has assumed national importance” for the words:

“or expedient in the national interest..... ..resolution” and add the words:

“that Parliament should make laws with respect to such matter”;

before the words “it shall be lawful for the Parliament etc.”.

In article 228 for the words “Nothing in articles 226 and 227” substitute “Nothing in article 227”.

ALLADI KRISHNASWAMI.

Article 218 is unnecessary, as it deals with the Supreme Court which is an item in List I.

Article 221 deals with a High Court. There is no point in specially providing for the jurisdiction as the jurisdiction of all Courts including the High Court is covered by items relating to the jurisdiction in the 3 Lists. As the articles dealing with the distribution of legislative power specially refer to the Lists, a separate article dealing with the Supreme High Court is superfluous and unnecessary.

ALLADI KRISHNASWAMI.

■

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